



**STATE OF NEW JERSEY**

In the Matter of Cenisa T. Bernal,  
Clerk 3 (PC2480V), Ocean County

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2021-1185

List Removal Appeal

**ISSUED: MARCH 4, 2022 (BS)**

Cenisa T. Bernal appeals her removal from the promotional list for Clerk 3 (PC2480V), Ocean County due to her failure to respond to the certification notice.

The Clerk 3 (PC2480V) promotional examination was announced with a closing date of November 21, 2017. The subject promotional examination was held on November 29, 2018 and the resulting promotional eligible list containing nine names, including the appellant who was the sixth ranked eligible, promulgated on December 27, 2018 and expired on December 26, 2021. In disposing of the October 21, 2020 certification, the appointing authority removed the appellant due to her failure to respond to the certification notice.

On appeal, the appellant stated that she never received a certification notice via the mail. In support of her appeal, the appellant submits a sworn, notarized statement that she did not receive the certification letter.

In response, the appointing authority indicates that it issued one certification containing the names of four eligibles. The appellant's name was removed because she did not respond to the certification notice. In addition, the appointing authority contends that it does not support the restoration of the appellant's name to the list as she does not satisfy the statutory requirements as set forth in *N.J.A.C. 4A:4-2.6*. The appointing authority submitted a copy of the appellant's performance evaluation in

support of its position. The evaluation also documented the appellant's tardiness and excessive use of sick time during the rating period.

### CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove her name from an eligible list was in error.

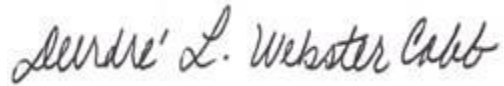
The appointing authority requested the removal of the appellant's name from the eligible list for Clerk 3 (PC2480V), on the basis that she failed to respond to the certification notice. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that she did not receive the October 28, 2020 certification letter. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting her sworn, notarized statement. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Under these circumstances, it would be appropriate that her name be restored to the subject eligible list. However, the appointing authority indicated that it was not planning on appointing the appellant, the promotional list for Clerk 3 (PC2480V) expired on December 26, 2021, and the appellant did not possess a vested property interest in the position. The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990). Therefore, as the appellant did not lose any opportunity to be considered, the appeal is denied.

### ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 2<sup>ND</sup> DAY OF MARCH, 2022



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