



STATE OF NEW JERSEY

In the Matter of Rafael Rivera, Police
Sergeant (PM0862V), Borough of
Roselle

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

CSC Docket No. 2022-2639

List Removal Appeal

ISSUED: November 2, 2022 (SDW)

Rafael Rivera appeals the removal of his name from the eligible list for Police Sergeant (PM0862V), Roselle on the basis that he failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the promotional examination for Police Sergeant (PM0862V), which had a closing date of July 21, 2017. The resulting eligible list promulgated on May 24, 2018 and expired on May 23, 2022. The appellant's name was certified to the appointing authority on June 11, 2021. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the certification notice.

In support of his appeal to the Civil Service Commission, the appellant submits a sworn, notarized statement indicating that he did respond to the June 11, 2021 certification notice. Despite an opportunity to do so, the appointing authority, did not submit any arguments.

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 his name from an eligible list was in error.

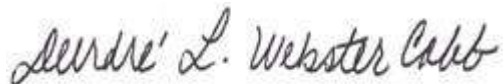
The appointing authority requested the removal of the appellant's name from the eligible list for Police Sergeant (PM0862V) on the basis of his failure to respond to the June 11, 2021 certification. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that he responded to the certification notice. 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 his 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). Thus, it is appropriate that his name be restored to the subject eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Police Sergeant (PM0862V), Roselle, be revived in order for appellant to be considered for appointment at the time of the next certification to Roselle for prospective employment opportunities only.

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 2ND DAY OF NOVEMBER, 2022



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