



STATE OF NEW JERSEY

In the Matter of Damian Daley,
Police Officer (S9999A), Perth Amboy

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2022-1231

List Removal Appeal

ISSUED: JULY 5, 2022 (JET)

Damian Daley, represented by Thomas M. Rogers, Esq., appeals the removal of his name from the Police Officer (S9999A), Peth Amboy, eligible list on the basis of falsification of the employment application.

The appellant took the open competitive examination for Police Officer (S9999A), achieved a passing score, and was ranked on the subsequent eligible list. The appellant’s name was certified on March 30, 2021 (OL210256). In disposing of the certification, the appointing authority requested the removal of the appellant’s name from the eligible list on the basis of falsification of his employment application. Specifically, the appointing authority asserted that the appellant, in response to the instructions and questions on the employment application, failed to provide his naturalization papers and high school diploma. The appointing authority also asserted that the appellant did not provide an update pertaining to his graduation from Bloomfield College. Additionally, with respect to the information pertaining to his employment history, the information the appellant provided included gaps in the dates of his employment. The appointing authority further indicated that, in response to the questions, the appellant did not provide a complete listing of his social media accounts, and he failed to provide his selective service number.¹ The appointing authority indicated that a review of the appellant’s social media accounts reflected photos where he used the numbers 232 and 24, which are known to be associated with the Bloods gang.²

¹ The appointing authority indicated that the appellant did not provide his Snapchat and Twitter accounts in his application.

² The appointing authority noted that the number 24 could have been in reference to Kobe Bryant.

On appeal to the Civil Service Commission (Commission), the appellant maintains that he did not falsify the employment application. Specifically, the appellant asserts that he was never involved with any organized crime or gangs. The appellant states that he has no criminal history, and it is his intention to become a Police Officer. The appellant did not provide any additional information or arguments in support of his appeal.

Despite being provided with the opportunity, the appointing authority did not provide any additional information or arguments in response to the appellant's appeal.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an individual from an eligible list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows for the removal an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for an appointment.

In the instant matter, the appointing authority states that the appellant did not provide required information in response to the instructions and questions on the employment application, including his naturalization papers, high school diploma, various social media accounts, employment gaps, and he failed to update it that he had graduated from Bloomfield College. The appellant argues that he did not falsify the employment application. Based on the information presented and for the reasons noted below, the Commission finds that the matters pertaining to his naturalization papers, high school diploma, and college graduation cannot be considered as sufficient omissions to remove the appellant from the list. Initially, although the appointing authority indicates that it provided instructions and the Personal History Questionnaire (PHQ) to the appellant, and he failed to provide a copy of his naturalization papers and high school diploma as a part of the pre-employment process, the appointing authority did not provide a copy of such instructions in this matter for review. As such, it is unclear from the record if the appellant was instructed to provide such information as a part of the pre-employment process. Moreover, a review of the record reveals documentation dated June 24, 2021, from the Perth Amboy Office of Professional Standards, which indicates that the appointing authority, during its background investigation, confirmed that the appellant was a naturalized citizen. With respect to the appellant's high school diploma, in response to question #1 under the Education Section, the appellant listed that he attended Perth Amboy High School from September 2012 to June 24, 2016,

and he checked “transcript attached.” A review of the appointing authority’s June 24, 2021, Professional Standards document indicates that the appointing authority was aware at the time it conducted the background investigation that the appellant graduated from Perth Amboy High School in 2016. Although the appointing authority states that the appellant provided information pertaining to his attendance at Bloomfield College but did not update it about his graduation, the June 24, 2021, Professional Standards document confirms that the appellant graduated from Bloomfield College in 2021. As such, it is unclear if the appellant failed to provide that documentation to the appointing authority. Even if the appellant did not provide such documentation to the appointing authority, it was not prevented from conducting a background investigation and obtaining the above listed information during the appointment process, as indicated in its June 24, 2021, Professional Standards document.

With respect to the appointing authority’s contention that the appellant was affiliated with a gang, in response to questions #43 and #44 on page 29 of the employment application, “Have you ever been a member of or associated/affiliated with a person promoting criminal activity, any criminal group, or any Criminal Street Gang as defined by *N.J.S.A. 2C:44-3*” and “Do you know any individuals, including relatives, who you know or have reason to believe are or have been members of any organization listed in question 43,” the appellant answered “no.” Initially, the appointing authority states that a review of the appellant’s social media accounts reveal that he referenced the numbers 24 and 232 in his pictures posted to such accounts. Although the appointing authority states that the numbers 232 and 24 could indicate that the appellant was involved in the Bloods gang, it does not provide any information to show that the appellant was instructed to provide his social media accounts. As such, it is unclear if he was instructed to do so. It also indicates that the number 24 could have been related to Kobe Bryant. Although the appellant does not in this matter explain what the numbers 232 and 24 are in reference to as indicated on his social media account, he maintains on appeal that he was not involved in gang activity and has no adverse background. The appointing authority did not refute on appeal that the appellant was not involved in gang activity. Moreover, the record reflects that the appellant was employed as an intern with the Perth Amboy Police Department from October 2014 to June 2016. As such, the Commission cannot fathom why the appointing authority would have employed the appellant as an intern if he was affiliated with the Bloods gang. Since the appointing authority did not provide any substantive information to confirm that the appellant was involved in gang related activity, the appellant cannot be removed for falsifying the employment application with respect to that matter.

Regarding the appointing authority’s contention with respect to the appellant’s failure to provide his selective service number, in response to question #1 under the Military Service Section requiring him to provide his selective service number, the appellant indicated “n/a.” The appointing authority’s background investigation

revealed that the appellant does, in fact, have a selective service number, which the appellant does not dispute on appeal. In response to question #1 under the Experience and Employment Section on the employment application, "Beginning with your most recent employment, list all jobs you have held since the age of 18, include all full time, part-time, self-employment and volunteer work, list dates employed, employer, your duties and supervisors names and phone numbers [and] list all periods of unemployment in excess of 30 days as 'unemployed,'" listing the dates of unemployment and explain the reasons," the appellant listed that he was employed at Essex County Department of Citizen Service from January 2021 to the 2021 date he submitted the employment application, at the Middlesex County Mosquito Commission from August 2019 to January 2020, at WaWa from May 2019 to August 2019, at Banana Republic from March 2019 to April 28, 2019, at Altitude Trampoline Park from June 2018 to August 2018, and at Dave and Buster's from July 2018 to August 24, 2018. The appellant did not provide information with respect to his gap in employment from the time he left employment at Middlesex County Mosquito Commission in January 2020 to the time he started employment at the Essex County Department of Citizen Service in January 2021, which constitutes a year of time as a gap in his employment history. As such, the appellant did not fully disclose information to the appointing authority in response to the questions pertaining to his selective service number and employment history on the employment application. Such information was necessary in order for the appointing authority to properly complete the background investigation during the appointment process.

Moreover, it is clear that the appellant did not properly complete the employment application. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Police Officer, to ensure that his employment application is a complete and accurate depiction of her history. In this regard, the Appellate Division of the New Jersey Superior Court in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. See *In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

In this case, the appellant's omissions are sufficient cause to remove his name from the eligible list. It is clear that he failed to disclose full information in his background in response to the questions in the employment application. The information noted above, which the appellant failed to disclose, is considered material

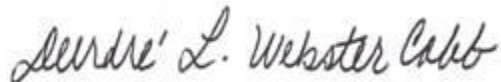
and should have been accurately indicated on his employment application. At the very least, the appointing authority needed this information to make a full and informed decision regarding the appellant's suitability for the position. The appellant's failure to disclose such information is indicative of his questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer. In this regard, the Commission notes that a Police Officers hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). See also *In re Phillips*, 117 N.J. 567 (1990). The public expects Police Officers to present a personal background that exhibits respect for the law and rules. Accordingly, there is sufficient basis to remove the appellant's name from the Police Officer (S9999A), Perth Amboy, eligible list.

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 29TH DAY OF JUNE 2022



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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