

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Toufic Hayek, Jr.  
Police Sergeant (PM0896V),  
Woodland Park  
Borough

List Removal Appeal

CSC Docket No. 2023-545

ISSUED: January 18, 2023 (VJ)

Toufic Hayek, Jr., appeals the removal of his name from the eligible list for Police Sergeant (PM0896V), Woodland Park Borough on the basis that he failed to respond to the certification notice.

The appellant took and passed the promotional examination for Police Sergeant (PM0896V), which had a closing date of July 21, 2017. The resulting eligible list promulgated May 24, 2018 and expired on October 18, 2022. The appellant's name was certified to the appointing authority on May 19, 2022, with a notice date of May 26, 2022. 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 (Commission), the appellant submits a sworn, notarized statement indicating that he timely responded to the May 26, 2022 certification notice.

Despite an opportunity to do so, the appointing authority did not submit a response.

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.

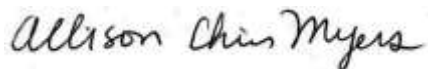
The appointing authority requested the removal of the appellant's name from the subject eligible list on the basis of his failure to respond to the certification notice. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that he timely responded to the certification 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 for prospective employment opportunities only.

### ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Police Sergeant (PM0896V), Woodland Park Borough, be revived in order for the appellant to be considered at the time of the next certification 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 18<sup>TH</sup> DAY OF JANUARY, 2023




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