



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. 2023-351

Reconsideration

ISSUED: May 24, 2023 (JET)

Damian Daley, represented by Thomas M. Rogers, Esq., requests reconsideration of the final administrative decision, rendered on June 29, 2022, which upheld his removal from the eligible list for Police Officer (S9999A), Perth Amboy.

The history of that matter can be found in, *In the Matter of Damian Daley, Police Officer (S9999A), Perth Amboy* (CSC, decided June 29, 2022). In that matter, the appointing authority removed Daley’s name from the subject eligible list on the basis of falsification of the employment application. Specifically, the appointing authority asserted that Daley failed to provide documentation in response to certain questions on the employment application concerning his naturalization papers, high school diploma, and selective service number. The appointing authority also alleged that Daley did not provide complete information in response to questions concerning his education and employment. The appointing authority further indicated that the Daley’s social media accounts showed photos of him numbers, which it claimed are associated with the Bloods gang. On appeal, Daley argued that he did not falsify the employment application. In its June 29, 2022 decision, the Civil Service Commission (Commission) upheld the removal from the eligible list, finding that he did not disclose his full employment history and his selective service number on the employment application. In particular, it noted that he failed to explain the year long gap in employment from January 2020 through January 2021.

In his request for reconsideration, Daley asserts that, he had previously served as an intern with the appointing authority during his sophomore and senior years of high school and his last year of college, and as such, would have been subject to at least three background checks. Daley maintains that as a consequence, the appointing authority would have been provided all the information necessary to ensure the integrity of those background checks, including his status as a naturalized citizen and possession of a selective service number. Further, Daley argues that nothing prevented the appointing authority from obtaining the information on its own. Daley adds that, with respect to the gaps in his employment background, he indicated on the employment application that he was a student and received unemployment benefits in 2020 and 2021.

Finally, Daley maintains that he does not have any involvement with gang activity, and the appointing authority made false assumptions about such activity based on its review of his social media accounts. He argues that the appointing authority would have exercised poor judgement if it had previously employed him, despite knowing he was involved in gang activity. Moreover, Daley asserts that the appointing authority does not appear to take issue with the social media accounts belonging to other individuals who either work there or applied for the subject position.

Despite being provided with the opportunity, the appointing authority did not provide any further arguments or information in response to this matter.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

Initially, in the prior matter, the Commission removed Daley's name from the subject eligible list due to his failure to provide his selective service number, and for failure to disclose his entire employment background, including explaining gaps in his employment history. In this regard, the Commission previously found that Daley did not disclose the gap in his employment from the time he left employment at the Mosquito Control Commission in January 2020 to the date he began employment at the Essex County Department of Citizen Services in January 2021.

A review of the record in this matter reveals that, although Daley noted in response to the question, as to whether he had ever received unemployment, that he had received unemployment in 2020 and 2021 as he was in school, such information was not enough to satisfy the fact he was required to explain all gaps in employment.

In this regard, Section IX of the employment application states, “List all periods of unemployment in excess of 30 days as ‘unemployed’ listing the dates of unemployment and explain reasons (student, travel, etc.). Based on the instructions, there should be no gaps in the timeline from when an applicant turns 18 until the present day.” Although Daley checked “yes” to the question whether he had ever received unemployment benefits, he was still required to list the specific dates of his unemployment, which he failed to do.

The record also reflects that Daley did not disclose his selective service number to the appointing authority on his application as required. Daley argues that, since he was previously employed by the appointing authority, it should have already had his selective service number on file, and the appointing authority was not prevented from obtaining such information based on information he provided. However, the record is unclear if the appointing authority actually did have Daley’s selective service number on record prior to conducting the background investigation. Regardless, it was Daley’s responsibility to provide complete information in response to the questions on the employment application, as such information is considered material to the appointing authority in making an informed decision about his suitability for the position. Moreover, the fact that Daley previously worked at the appointing authority as an intern does not excuse his omissions. In this regard, Civil Service law and rules do not prevent an appointing authority from conducting a background investigation prior to an appointment, and although Daley was previously an intern, the appointing authority was authorized to conduct a background investigation prior to considering him for appointment from the subject eligible list. The Commission has consistently determined on numerous occasions that appointing authorities are authorized to conduct background investigations in order to assist them during the hiring process to determine a candidate’s suitability for employment. It is especially important for appointing authorities to conduct such background investigations for employment in law enforcement. In this matter, it would have been irresponsible for the appointing authority to have not conducted a background check, as it was imperative for it to ascertain if there was any intervening disqualifying factors between the time Daley’s internships had ended and his potential appointment as a Police Officer. As such, Daley has provided no substantive information that would change the outcome of the prior matter. Accordingly, Daley has not satisfied the standard for reconsideration.

ORDER

Therefore, it is ordered that this request for reconsideration 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 24TH DAY OF MAY, 2023

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