

B-10



STATE OF NEW JERSEY

In the Matter of Donald Watkins,
Correction Officer Recruit (S9987M),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-441

List Removal Appeal

ISSUED: SEP 05 2014 (JET)

Donald Watkins appeals the attached decision of the Division of Classification and Personnel Management (CPM), which upheld the removal of his name from the Correction Officer Recruit (S9987M), Department of Corrections, eligible list, on the basis of failure to appear for pre-employment processing.

The appellant, a veteran, took the open competitive examination for Correction Officer Recruit (S9987M),¹ achieved a passing score, was ranked on the June 10, 2011 eligible list, and his name was certified (JU11MI). In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of failure to appear for pre-employment processing. Specifically, the appointing authority asserted that the appellant was scheduled by e-mail for pre-employment processing on April 18, 2013 and he failed to appear. The appellant appealed to CPM, asserting, among other things, that he did not receive the notice to appear for pre-employment processing. However, CPM found that the appointing authority had sufficiently documented and supported its request to remove the appellant's name from the subject eligible list.

On appeal to the Civil Service Commission (Commission), the appellant maintains that he did not receive the e-mail notifying him to attend pre-employment processing. In this regard, the appellant explains that he initially could not access any of his e-mails, including e-mails from the appointing authority,

¹ It is noted that the Correction Officer Recruit (S9987M), Department of Corrections eligible list promulgated on June 10, 2011 and expired on June 9, 2013.

because his e-mail account was "backed up." The appellant adds that he recently "cleared up" his e-mail account and he can now access his e-mails. Further, the appellant contends that he telephoned the appointing authority to explain that he occasionally experiences problems accessing his e-mails, and he does not check his e-mail on a regular basis. The appellant questions why the appointing authority did not attempt to send the notice to appear for pre-employment processing through regular mail given that it sent the notice of his removal by mail. Moreover, the appellant asserts that he is a veteran and he is still interested in an appointment as a Correction Officer Recruit. In support of his appeal, the appellant submits a notarized statement under oath which indicates that he could not attend pre-employment processing because he did not receive the e-mails dated October 22, 2012 or April 1, 2013 because his e-mail account failed.

In response, the appointing authority asserts that the appellant's name was initially certified on October 22, 2012 and that it sent the notice of certification to the e-mail address he provided when he applied for the position. The appointing authority explains that, at the time of the certification, it sent certification e-mails to every candidate who had an e-mail address, and certification notices were mailed to those candidates who did not have an e-mail address. The appointing authority adds that the appellant initially failed to respond to this certification. Subsequently, on March 5, 2013, the appellant telephoned the Office of Human Resources to inquire about his status and he was advised by staff that it did not have a record of him responding to the certification. However, since the Recruitment Unit was having one last date of pre-employment processing, the appellant was advised by staff that he would be scheduled by e-mail to attend as the date for processing had not yet been set. The appointing authority underscores that the appellant was advised during this telephone call that all scheduling information would be sent to him via e-mail and staff confirmed his e-mail address. In this regard, in order to verify the accuracy of the e-mail address the appellant provided over the phone, staff advised him that he should send an e-mail to the Custody Recruitment mailbox. On March 13, 2013, the appointing authority received an e-mail from the appellant confirming his interest in the position. Thereafter, on April 1, 2013, the appointing authority sent an e-mail to the address provided in the appellant's March 13, 2013 e-mail, scheduling him to appear for pre-employment processing on April 18, 2013. Thus, the appellant was aware that this was his last opportunity to attend pre-employment processing before the list expired. In support of its position, the appointing authority provides copies of the above referenced e-mails.

Additionally, the appointing authority asserts that it does not mail appointment information to the candidates. In this regard, all candidates are informed at the time of the certification that they will receive appointment notices by e-mail. The appointing authority explains that pre-employment processing is sent by e-mail so that candidates may expeditiously reply with information.

Moreover, the appointing authority asserts that removal letters are the only notices that are sent by regular mail in order to alleviate any unnecessary responses from the candidates.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *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 the appellant from an eligible list was in error.

In the instant matter, although the appellant submits a notarized statement under oath stating that he did not receive the e-mails scheduling him for pre-employment processing, the appointing authority correctly removed his name from the eligible list. The appellant's argument that he did not receive the e-mail notice to appear for pre-employment processing is not persuasive. The appellant explains on appeal that he initially could not access the e-mail notices from the appointing authority because his account was "backed up," but he also explains that he later "cleared his e-mail account so he now has access to all the e-mails." Based on that information, it appears that the appellant was simply unable to gain access to his e-mails due to difficulties he experienced with the program. However, the fact that the appellant was unable to access the e-mails is not sufficient to show that the appointing authority did not send the e-mails or that it was somehow at fault for the appellant's situation. More importantly, the appointing authority provided confirmation that it verified the appellant's e-mail address and it verbally informed him on March 5, 2013 that it would schedule him to appear for pre-employment processing via the e-mail address he provided. In this regard, the record reflects that less than one month later, the appointing authority sent an e-mail dated April 1, 2013 to the e-mail address provided by the appellant scheduling him to appear for pre-employment processing on April 18, 2013. Thus, the record indicates that the appellant was aware that he would be contacted via e-mail to schedule him for pre-employment processing and he took no steps to ensure that his e-mail account was cleared or not "backed up."

Regarding the appellant's argument that the appointing authority did not mail the pre-employment processing notice to him, his arguments do not change the outcome of this case. In this regard, the appointing authority states that for this certification, it explained to the candidates with an e-mail address, including the appellant, that it would e-mail the notices rather than send them through the mail. Since the appellant provided his e-mail address to the appointing authority as a method to contact him and he was told that pre-employment processing would be scheduled via his e-mail address, he did not have an expectation that notices would be sent through regular mail. Further, there is nothing in the record indicating

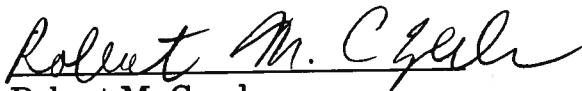
that the appellant objected to receiving e-mail notifications from the appointing authority as it is evident that he confirmed his e-mail address with the appointing authority on March 5, 2013 when he contacted Human Resources for a status update. Under these circumstances, it is clear that the appointing authority took additional steps to accommodate the appellant's situation and any problems that he may have experienced with his e-mail account do not establish sufficient justification to restore his name to the eligible list. Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient justification for removing his name from the Correction Officer Recruit (S9987M) 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 3rd DAY OF SEPTEMBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries	Henry Maurer
and	Director
Correspondence	Division of Appeals
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Attachment

c: Donald Watkins
Jennifer Rodriguez
James Mulholland
Kenneth Connolly
Dan Hill



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION & PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

July 26, 2013

Donald Watkins

Title: Correction Officer Recruit

Symbol: S9987M

Jurisdiction: Department of Corrections

Certification Number: JU11M1

Certification Date: 06/10/11

Initial Determination: Removal – Did not appear/complete pre-employment processing

This is in response to your correspondence contesting the removal of your name from the above-referenced eligible list.

The Appointing Authority requested removal of your name in accordance with *N.J.A.C. 4A:4-6.1(a) 4*, which permits the disqualification of an eligible candidate's name from the eligible list when one has failed to pass preliminary examination procedures.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name has been sustained and your appeal is denied.

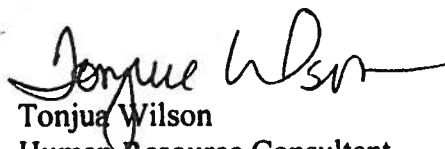
Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Division of Appeals & Regulatory Affairs (ARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to ARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees.

Address all appeals to:

Henry Maurer, Director
Division of Appeals & Regulatory Affairs (ARA)
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,



Tonjua Wilson
Human Resource Consultant
State Certification Unit

For Joe M. Hill Jr. Assistant Director
Division of Classification & Personnel Management

C James Mulholland, HR Director
File