



B-20

**STATE OF NEW JERSEY**

In the Matter of Taneefah Faison,  
Correction Officer Recruit (S9988R),  
Department of Corrections

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

CSC Docket No. 2015-853

List Removal Appeal

ISSUED: **MAR - 6 2015** (SLK)

Taneefah Faison, represented by Akil S. Roper, Esq., appeals the attached determination of the Division of Classification and Personnel Management (CPM) upholding the removal of her name from the eligible list for Correction Officer Recruit (S9988R), Department of Corrections, on the basis of an unsatisfactory criminal record.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R),<sup>1</sup> achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified on May 23, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory criminal record. Specifically, the appellant had several adverse interactions with law enforcement which included: (1) a charge under *N.J.S.A. 2C:20-3*, theft by unlawful taking in the second degree (auto theft), which placed her on house arrest and required completion of a Juvenile Conference Committee diversion program which was dismissed in October 1997 after she completed the auto theft program; (2) a charge under *N.J.S.A. 2C:20-7*, receiving stolen property (passenger in a stolen vehicle), which was amended to disorderly conduct for which she was found guilty in January 2000; and (3) a charge under *N.J.S.A. 2C:5-2*, conspiracy in the 2<sup>nd</sup> degree for narcotics trafficking. The appellant appealed to CPM which found that the appointing authority had sufficiently supported its request to remove the appellant's name from the list.

<sup>1</sup> It is noted that the Correction Officer Recruit (S9988R) eligible list expires on May 22, 2015.

On appeal, the appellant presents that her minimal arrest record does not warrant removal from the subject list. With respect to her only juvenile charge, she states that she was 15 years old when she was charged in 1997 with theft by unlawful taking and she successfully completed an auto theft program. In reference to the January 2000 charge and her only adult conviction, the appellant maintains that she was a passenger in a car and was unaware that it was stolen. Thus, she was only charged with disorderly conduct, which was a municipal ordinance violation, and paid a fine and court costs. In regard to the criminal conspiracy charge, the appellant represents that the matter was dismissed in January 2014 after it was determined that she was not aware nor involved in any illegal activities. In that matter, the appellant states that it was her brother that was found guilty of drug charges and incarcerated.

The appellant contends that this record does not "adversely relate" to the position of Correction Officer Recruit in that she was never convicted of a "crime." In this regard, the appellant states that a crime is normally defined as an offense that is adjudicated in the Superior Court and subject to a sentence of imprisonment in excess of six months. See *N.J.S.A. 2C:1-4(a)*. Instead, she indicates that juvenile adjudications are rehabilitation oriented rather than punishment based, that she successfully completed several programs in the juvenile matter, and that her juvenile adjudication should not be given the same weight as a criminal conviction. Regarding the disorderly conduct offense, the appellant maintains that a minor violation alone is insufficient to remove her name from the list and that riding in a car which she was not aware was stolen should not disqualify her from consideration. Additionally, the appellant asserts that these offenses occurred so long ago that their relevance has significantly decreased. In this matter, her juvenile offense occurred when she was 15 years old and her adult offense occurred when she was 18 years old, which is over 14 years ago. The appellant also argues that her 2013 arrest should not be considered as an "arrest" for purposes for removal as there was no reason to draw an inference that she was involved in behavior that should warrant her disqualification, since ultimately it was found that she had no involvement in any wrongdoing. Indeed, the appellant maintains that she was unaware of that matter until she was informed that she had an outstanding bench warrant and she had already submitted her application for consideration. Therefore, the appellant contends that she did not fail to disclose or misrepresent her arrest record. Finally, the appellant emphasizes that she has been steadily employed for the past 11 years and she provides several letters of reference which indicate that she is honest, reliable, intelligent, and very capable. Additionally, she indicates that she has had to meet numerous family challenges including being the primary caregiver for her sick grandmother, arranging for educational services for her eight year old son who has been diagnosed with a learning disorder, and she was recently awarded custody of her brother's two year old child as her brother is currently incarcerated.

In response, the appointing authority states that the totality of the three incidents warrants her removal from the list. At the time that she reported for pre-employment processing on October 9, 2013, the appointing authority underscores that the appellant's conspiracy charge was an active pending matter and there was never a determination if she was innocent. Instead, the matter was dismissed when her brother, who was convicted of narcotics trafficking while utilizing rental cars that she would rent for him, made a statement as part of a plea bargain that she had no knowledge of his illegal activity. The appointing authority also maintains that she falsified her application by failing to disclose the 2013 pending conspiracy charge on her employment application. It notes that regardless of when she became aware of the pending charge, she took no action after the submission of her application to disclose the information. The appointing authority highlights that on page 2 of the application, it states that candidates are to "promptly report any significant changes in [her] background information or involvement in any incident which may result in criminal...charges being brought against you." It asserts that her failure to provide this information and update her application regarding the pending indictment was material as it impacted it from making a recommendation for appointment.

In reply, the appellant states that no ruling was made as to her guilt or innocence since the prosecutor dropped the charges against her after a co-defendant admitted responsibility and testified that she had no involvement in the crime. Thus, she argues, to allow the appointing authority's characterization of her involvement in a crime is prejudicial. The appellant reiterates that her other "adverse interactions" with the law were minor and she provided documentation requested by the appointing authority in regard to the conspiracy charge.

In response, the appointing authority contends that the appellant's criminal record adversely impacts its consideration for a law enforcement position. It provides that in September 2000, the appellant was convicted after being arrested and charged with receiving stolen property, which arrest required her to be bailed out of jail for \$500.00. The appointing authority notes that only three years prior, she had completed a juvenile diversionary auto theft program after being charged with theft by unlawful taking in the second degree and punished by house arrest, and therefore showed no sign of rehabilitation. It also contends that it cannot overlook the seriousness of the conspiracy charge and her participation by renting cars for her brother on multiple occasions that were used in narcotics trafficking for which her brother was ultimately incarcerated. The appointing authority argues that the omission of the pending matter during processing is material to its decision to remove her from the eligible list and must be considered as a necessary underlying factor warranting removal. The appointing authority also represents that she failed to return employment verifications as required during pre-employment processing. Further, it indicates that the appellant did not provide

adequate explanations as to why she left certain jobs as she indicated that she left one position for "pregnancy complications" but failed to indicate if she was fired, quit, or resigned in good standing, then she had a three year work hiatus, and then she left another position after three years and nine months due to "conflicting schedules."

## CONCLUSION

*N.J.S.A. 11A:4-11* and *N.J.A.C. 4A:4-4.7(a)4* provide that an eligible's name may be removed from an employment list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

Further, it is well established that municipal police departments may maintain records pertaining to juvenile arrests, provided that they are available only to other law enforcement and related agencies, because such records are necessary to the proper and effective functioning of a police department. *Dugan v. Police Department, City of Camden*, 112 N.J. Super. 482 (App. Div. 1970), cert. denied, 58 N.J. 436 (1971). Thus, the appellant's juvenile arrest records were properly disclosed to the appointing authority, a law enforcement agency, when requested for purposes of making a hiring decision. While an arrest is not an admission of guilt, it may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. See *In the Matter of Tracey Shimonis*, Docket No. A-3963-01T3 (App. Div. October 9, 2003).

Additionally, participation in the PTI Program is neither a conviction nor an acquittal. See *N.J.S.A. 2C:43-13(d)*. See also *Grill and Walsh v. City of Newark Police Department*, Docket No. A-6224-98T3 (App. Div. January 30, 2001); *In the Matter of Christopher J. Ritoch* (MSB, decided July 27, 1993). *N.J.S.A. 2C:43-13(d)* provides that upon completion of supervisory treatment, and with the consent of the prosecutor, the complaint, indictment or accusation against the participant may be dismissed with prejudice. In *Grill, supra*, the Appellate Division indicated that the PTI Program provides a channel to resolve a criminal charge without the risk of conviction; however, it has not been construed to constitute a favorable termination. Furthermore, while an arrest is not an admission of guilt, it may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. Thus, the appellant's arrest and entry into the PTI program could still be properly

considered in removing his or her name from the subject eligible list. *Compare In the Matter of Harold Cohrs* (MSB, decided May 5, 2004) (Removal of an eligible's name reversed due to length of time that had elapsed since his completion of his PTI).

Moreover, *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:4-6.3(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 or her name from an eligible list was in error.

In the instant matter, the appointing authority has presented a valid basis to remove the appellant's name from the subject list. The appellant submitted her employment application to the appointing authority on October 9, 2013. Question 46 on page 17 asks, "Have you ever been arrested, indicted, charged with or convicted of a criminal or disorderly persons offense in this state or any other jurisdiction?" However, the appellant failed to disclose the conspiracy charge related to her brother's narcotics trafficking. The appellant claims that she was unaware of the matter until she was informed that she had a bench warrant on October 10, 2013 and therefore she did not fail to disclose or misrepresent her arrest record. 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 his 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. In this case, the appellant admits that she became aware of the conspiracy charge just one day after she submitted her application. However, it cannot be ignored that the instructions on page two of the application clearly indicate that a candidate is required to report any changes in your background which may result in criminal charges during the selection process. Clearly, the discovery of a pending conspiracy charge during the application process for a law enforcement position is information that is material to the selection process. Therefore, the appellant had an obligation to immediately report the pending charge but she failed to do so. The fact that the appellant may have cooperated with the appointing authority once it contacted her about the charge did not relieve her of her duty to initially inform the appointing authority about the charge. Consequently, her failure to provide information that was material to the position sought is sufficient grounds to remove her from the list.

Moreover, the appellant has not offered any explanation as to why she rented cars on behalf of her brother on multiple occasions. These rental cars were then used in narcotics trafficking and the appellant was charged as a co-conspirator. The

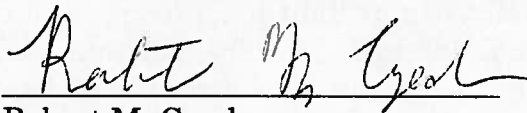
appellant argues that since the prosecutor dropped the charges against her after the co-defendant admitted responsibility and testified that the appellant had no involvement, and she has not acknowledged any involvement in the charged offense, the charges cannot be a basis for her removal. However, this only indicates that the prosecutor chose not pursue the charges based on her brother's testimony that she did not have any involvement as part of a plea agreement. Additionally, as a juvenile the appellant participated in a diversion program for auto theft and three years later as a young adult she was convicted of a disorderly persons offense for being a passenger in a stolen car. Therefore, the totality of the appellant's background, which include multiple adverse interactions with law enforcement, including a recent interaction in 2013 that involved narcotics trafficking, demonstrate that at minimum she lacks the judgment necessary for a law enforcement position. In this regard, it is recognized that a Correction Officer Recruit is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correction Officers, like municipal 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 Correction Officers to present a personal background that exhibits respect for the law and rules. Accordingly, the appellant has not met her burden of proof in this matter and the appointing authority has shown sufficient cause for removing her name from the Correction Officer Recruit (S9988R) 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 4<sup>th</sup> DAY OF MARCH, 2015

A handwritten signature in cursive script, appearing to read "Robert M. Czech", written over a horizontal line.

Robert M. Czech  
Chairperson  
Civil Service Commission

**Inquiries  
and  
Correspondence**

**Henry Maurer  
Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312**

**Attachments**

**c: Taneefah Faison  
Akil S. Roper, Esq.  
James Mullholland  
Kenneth Connolly**





STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
Division of Classification & Personnel Management  
P. O. Box 313  
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Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

Robert M. Czech  
Chair/Chief Executive Officer

August 26, 2014

04140178  
04140217

Taneefah J. Faison

**Title: Correction Officer Recruit**

**Symbol: S9988R**

**Jurisdiction: Department of Corrections**

**Certification Number: JU13D01**

**Certification Date: 05/23/2013**

**Initial Determination: Removal – Unsatisfactory Criminal Record**

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:4-4.7(a) 4 which permits the removal of an eligible candidate's name from the eligible list for unsatisfactory criminal history.

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 Appeals and Regulatory Affairs (DARA) 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 DARA. 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:



Taneefah J. Faison

Page 2

Henry Maurer, Director  
Appeals and Regulatory Affairs  
Written Record Appeals Unit  
PO Box 312  
Trenton, NJ 08625-0312

Sincerely,  
For the Assistant Director, Joe Hill Jr.

Mignon K. Wilson  
Human Resource Consultant

