



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Kenneth Luckey,  
Correction Officer Recruit (S9988R),  
Department of Corrections

List Removal Appeal

CSC Docket No. 2016-1736

ISSUED: **OCT 21 2016** (HS)

Kenneth Luckey appeals the removal of his name from the eligible list for Correction Officer Recruit (S9988R), Department of Corrections, on the basis of his failure to complete pre-employment processing.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R), achieved a passing score and was ranked as a non-veteran on the subsequent eligible list. The eligible list promulgated on May 23, 2013 and expired on July 3, 2015.<sup>1</sup> The appointing authority e-mailed the appellant on May 18, 2015 attempting to schedule him for a home interview. Having received no response to that e-mail, the appointing authority removed the appellant's name from the subject eligible list on the basis of his failure to complete pre-employment processing.

On appeal, the appellant maintains that he checked his e-mail but never received the May 18, 2015 e-mail. He further states, among other things, that although his e-mail provider changed in June 2015, he informed the appointing authority of the change and kept his old account open through the end of that month. In addition, the appellant submits a sworn, notarized statement that he did not receive an e-mail on May 18, 2015 requiring him to schedule and complete a home interview.

<sup>1</sup> In *In the Matter of Correction Officer Recruit (S9988R)* (CSC, decided June 3, 2015), the Civil Service Commission revived and extended the eligible list until a new list became available.

In response, the appointing authority stands with its original decision to remove the appellant from the subject eligible list. Specifically, the appointing authority states that it advised the appellant in April 2015, earlier in the pre-employment process, that he would later be contacted by phone or e-mail to conduct a home interview. It notes that the May 18, 2015 e-mail attempting to schedule the home interview was sent to the same e-mail address provided by the appellant on his "Applicant Contact Form" and reiterates that it did not receive a response to the e-mail. In support, the appointing authority submits, among other documents, copies of the May 18, 2015 e-mail and the appellant's "Applicant Contact Form."

### CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)11 allows the Civil Service 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.

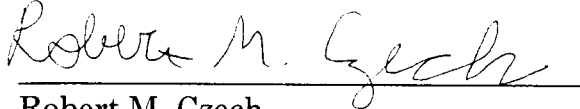
In the instant matter, the appointing authority removed the appellant's name from the subject eligible list because it did not receive a response to its May 18, 2015 e-mail attempting to schedule the appellant for a home interview, and therefore, the appellant did not complete pre-employment processing. However, the appellant submits a sworn, notarized statement that he did not receive an e-mail on May 18, 2015 requiring him to schedule and complete a home interview. *See In the Matter of Salena Bradley* (CSC, decided July 16, 2014) (Commission restored appellant's name to the Correction Officer Recruit (S9988R) eligible list as she submitted a sworn notarized statement that she had not received the e-mail from the Department of Corrections notifying her of the date she was to appear for pre-employment processing). Accordingly, under these circumstances, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient justification for removing his name from the Correction Officer Recruit (S9988R), Department of Corrections eligible list.

### ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Correction Officer Recruit (S9988R), Department of Corrections be revived in order for the appellant to be considered for appointment 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 19<sup>TH</sup> DAY OF OCTOBER, 2016



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