



**STATE OF NEW JERSEY**

In the Matter of Robert Petrick, III,  
Correction Officer Recruit (S9988T),  
Department of Corrections

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

CSC Docket No. 2016-2985

List Removal Appeal

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

Robert Petrick, III appeals the Department of Corrections' decision to remove his name from the Correction Officer Recruit (S9988T), Department of Corrections, eligible list on the basis of falsification of his application.

The appellant took the open competitive examination for Correction Officer Recruit (S9988T), achieved a passing score, and was ranked on the subsequent eligible list. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of falsification of his application. Specifically, the appellant failed to disclose that he was charged on August 6, 2003 for violating a local ordinance from a July 8, 2003 incident. Subsequently, after being found guilty, the appellant was required to attend Alcoholics Anonymous meetings, write a three-page paper on alcohol poisoning and the effects it has on the body, and write a letter of apology to his parents. After completing the diversion program, the matter was dismissed on December 16, 2003.

On appeal, the appellant acknowledges that he was charged with underage drinking when he was 14 years old. He presents that he successfully completed the diversion program and the matter was dismissed in December 2003. He highlights that he is now 27 years old and explains that this incident happened 13 years ago and did not purposely fail to disclose it on his application. He indicates that he has not been arrested since that incident. Further, he asserts that, when he applied for Federal employment, this incident did not appear during the investigation of his background. He highlights that he is a volunteer Fire Fighter, he is currently

employed as a Federal Corrections Officer at Fort Dix, possesses a Bachelor's degree, and scored a 99.08 on the subject examination.

In response, the appointing authority provides that question 46 on the appellant's employment application asked, "have you ever been arrested, indicted, charged with, or convicted of a criminal or disorderly persons offense in the State or any other jurisdictions as a juvenile or an adult?" Therefore, it contends that the appellant was required to list the underage drinking incident on his application regardless of whether it was dismissed by any form of pre-trial intervention.

### CONCLUSION

*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.

The primary inquiry regarding the removal of a candidate's name based on the falsification of his or her employment application 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. *See In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003).

In this matter, a thorough review of the record indicates that the appellant's removal from the (S9988R) eligible list for Correction Officer Recruit is not warranted. With respect to the appellant's juvenile history, in 2003, when he was 14 years old, the appellant was charged with underage drinking. The case was referred to a non-adjudicatory diversion program and the matter was ultimately dismissed. As such, the Commission finds that it is unlikely that he did not recall the underage incident as he had to complete a diversion program. More likely is that the appellant did not consider the incident as germane as it did not come up during his screening for Federal employment. Additionally, the incident was a minor offense when he was a 14-year old juvenile and the incident occurred over 11 years prior to the January 8, 2015 closing date for the subject examination. Further, this was an isolated event as the appellant has not been convicted for any criminal activity since the occurrence. Also, he asserted that he has been rehabilitated as evidenced by his being a volunteer Fire Fighter and a Federal Corrections Officer and by earning a Bachelor's degree, and the appointing authority has not disputed these claims. *See In the Matter of Richard A. Rizzolo*, Docket No. A-0589-03T5 (App. Div. December 8, 2004) (The Appellate Division upheld the restoration of an eligible to a Fire Fighter eligible list, based on significant evidence of rehabilitation since the appellant's arrests in 1989 and 1990). As such, taking into consideration that the charge against the appellant was minor and the incident took place in 2003, when he was 14 years old, the totality of

the record would not provide a sufficient basis to remove the appellant's name from the subject eligible list. Therefore, the information omitted from the appellant's application is not material and the omission of this information did not amount to the falsification. See *In the Matter of Giuseppe Tubito* (CSC, decided April 9, 2014) (One time careless action of a nine year old that led to him being criminally charged did not reflect adversely on his character 20 years later to make him an unsuitable candidate for employment). See *In the Matter of Julio Rivera* (MSB, decided February 11, 2004) (Eligible's name restored to list who neglected to disclose that he was suspended from school for two or three days when he was 12 years old); See also, *In the Matter of Daniel Labazzo* (MSB, decided September 25, 2002); *In the Matter of Marlon Chiles* (MSB, decided September 6, 2006). However, the Commission reminds the appellant that he needs to include all requested information, including the information regarding this underage incident, on any future applications.

Accordingly, 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 eligible list for Correction Officer Recruit (S9988T), Department of Corrections.

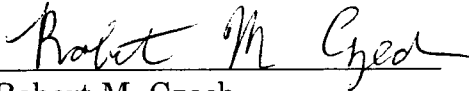
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### ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name restored to the list for Correction Officer Recruit (S9988T), Department of Corrections, 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



Robert M. Czech

Chairperson

Civil Service Commission

Inquiries  
and  
Correspondence

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

Attachment

c: Robert Petrick, III  
Elizabeth Whitlock  
Veronica Tingle  
Kelly Glenn

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State of New Jersey  
DEPARTMENT OF CORRECTIONS  
CUSTODY RECRUITMENT UNIT  
PO Box 863  
TRENTON NJ 08625-0863

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

GARY M. LANIGAN  
Commissioner

February 5, 2016

ROBERT J PETRICK  
[REDACTED]  
[REDACTED]

**RE: NOTIFICATION OF REMOVAL**  
Symbol: S9988T; Rank: 0424

Dear Candidate:

This is to inform you that your name has been removed from the above referenced open-competitive list for State Correction Officer Recruit due to:

(X) Security and Background Check: Falsification of Application: You failed to disclose being charged with any local ordinance on 8/06/03. Charge was disposed with a successful divers program 8/7/03, attend AA meeting, write a 3 page reaction paper, attend 3 sessions w/SAC at CHS, write a 3 page paper on alcohol poisoning, you were ordered to call Juvenile conference committee with grades, and write a letter of apology to parents. Once all the obligations were fulfilled, your charge dismissed on 12/16/03.

NJAC 4A:4-4.7 provides for the removal of a prospective employee for the reason noted. Therefore, your name has been removed from the S9988T eligible list.

You may, within 20 days from the date of this notice, appeal this action by writing to the Civil Service Commission at the return address provided below indicating why this action is not warranted. Your appeal must include the certification number, your social security number, and all proofs, arguments, and issues you plan to use to substantiate the issue(s) raised in your appeal.

Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20.00 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 NJCSC. 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. Failure to submit the required \$20 fee or evidence of one of the exemptions will result in your appeal not being processed.

Your appeal must be filed with:

Civil Service Commission  
Division of Appeals and Regulatory Affairs  
Written Record Appeals Unit  
PO Box 312  
Trenton, NJ 08625-0312

**YOU MUST INCLUDE A COPY OF THIS NOTICE WITH YOUR APPEAL** and send a copy of your appeal documentation to the Custody Recruitment Unit for our records.

Sincerely,

Custody Recruitment Unit

HN  
C:file

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