



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

In the Matter of Brandon Wadley, Correction Officer Recruit (S9988R), Department of Corrections

CSC Docket No. 2015-3119

List Removal Appeal

ISSUED: NOV 01 2016 (JET)

Brandon Wadley, represented by Ronald J. Ricci, Esq. appeals the attached decision of the Division of Agency Services (Agency Services), which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the Correction Officer Recruit (S9988R), Department of Corrections eligible list due to an unsatisfactory background report and falsification of the employment application.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on May 23, 2013.¹ In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis of an unsatisfactory background report and falsification of the employment application. Specifically, the appointing authority asserted that pictures of the appellant and his friends were found on various social media sites which displayed hand signs associated with the Bloods street gang.² The appointing authority also asserted that the appellant had an inappropriate gang-related conversation with an individual on social media who stated, "lmao but im a boss shnow dat blood soowu five star shine gang if it dnt

¹ It is noted that the list expired on May 22, 2015.

² It is noted that the appellant is shown in a picture with his hands folded and wearing a shirt that indicates "I love" [unclear]. The appellant has his hands folded in the picture. It is further noted that various individuals in the same picture are displaying symbols with their right hands over their eyes. It is also noted that, in a separate picture, the appellant is wearing a Cincinnati Reds hat and is standing next to various individuals who have their pinky and index fingers extended.

make dollars in dnt make sence.” The appointing authority also asserted that the appellant falsified the employment application and marked “no” in response to the question inquiring if he was involved in subversive affiliations. On appeal to Agency Services, the appellant argued that his name should be restored to the eligible list. Agency Services upheld the appointing authority’s request to remove the appellant’s name from the subject eligible list.

On appeal, the appellant maintains that his name should be restored to the eligible list. Specifically, the appellant asserts that the information he provided to Agency Services clearly demonstrates that he and his friends are not affiliated with gangs. The appellant explains that he is law abiding and does not possess an arrest record. The appellant adds that the appointing authority did not provide any substantive documentation which confirms that he is affiliated with gangs. In addition, the appellant states that he is employed as an Operations Counselor at Logan Hall and he obtained an associate’s degree while employed at his job. Moreover, the appellant contends that he did not falsify the employment application.

Additionally, the appellant asserts that none of the photographs from his social media accounts establishes that he and his friends are involved with gangs. Specifically, the appellant explains that a photograph shows him at a birthday party with a friend who is an accomplished model and actor. The appellant adds that he did not post the pictures on social media despite that his friends “tagged” him in the photograph. Further, the appellant states that he was “tagged” in a photograph with a friend from high school, and another photograph shows him making the hand symbol for his high school fraternity. Moreover, the appellant avers that he is depicted in a photograph with friends at his church choir and they are discussing a pair of sneakers.³

It is noted that the pictures submitted by the appellant on appeal are the same pictures that were submitted by the appointing authority.⁴ It is also noted that the appellant provides letters of recommendation from his father, Bennie Wadley Jr., a County Correction Officer with Essex County, from Brad J. Howard, a teacher with Newark Public Schools, from Anthony Mitchell, a Reverend at Union

³ The appellant explains that, while in high school, he belonged to the Sigma Beta Club, and he displayed signs and wore the jacket of that organization in the pictures. Further, the appellant states that, in one of the pictures, he is using the national hand symbol of the Sigma Beta Club. In addition, the appellant states that there are individuals that appeared with him in a picture of his friend’s 21st birthday party whom he had just met and did not see again after that night. In this regard, the other two were at the party and were not the appellant’s friends. Moreover, the appellant states that he was “caught at the wrong place at the wrong time” in a picture with his high school friends and he did not associate with those friends outside of school.

⁴ The pictures display the appellant and his friends that as they appear on his social media accounts. The appellant is shown in one picture wearing a Cincinnati Reds baseball cap and holding his right hand on an angle with his index finger and pinky extended.

Chapel African Methodist Episcopal Church, and from J. Hooper, a Supervisor employed with Logan Hall.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list. Specifically, the appointing authority asserts that the appellant posted pictures of himself with his friends on social media which display multiple gang-related hand signs. The appointing authority explains that the appellant is shown using the hand sign signifying "Blood" in a picture, and he is depicted in a picture with various people using the hand sign signifying "MOB, Member of Bloods." In addition, the appointing authority avers that the appellant is pictured on a social media site having a conversation with an individual and "blood street gang" slang language was used. In this regard, the picture indicates "lmao but Im a boss shnow dat blood soowuu five star shine gang if it didn't make dollars in dnt make sense."⁵ The appointing authority explains that its background investigator, Senior Correction Officer Manning, verified that there was gang-related activity in the pictures by using a publication from New York City entitled "The Gang Manual."⁶ Moreover, the appointing authority states that it has a zero-tolerance policy against hiring gang members as Correction Officer Recruits.

It is noted that the appointing authority provides a copy of a page entitled M.O.B. (Member of Bloods) One Hand Stacks from the New York Police Department, which features various hand symbols that are associated with the M.O.B. gang.⁷

Additionally, the appointing authority asserts that the appellant answered "No" in response to question 66 on the employment application, "Are you now or have you ever been affiliated with any organization or groups described in question #65?" The appointing authority adds that, in response to question #67 on the employment application, "Are you associated with, or have you ever associated with any individuals including relatives who you know or have reason to believe are or have been members of any organization or groups described in question #65, the appellant answered "No." As such, the appointing authority contends that there is

⁵ It is noted that it does not appear that the appellant made the statement.

⁶ The appointing authority states that Senior Correction Officer Manning has extensive training in identifying gang-related activities. He has attended the New Jersey Gang Investigators Association Annual Gang Training, the Correctional Peace Officers Foundation Gang Training, and he attends monthly Gang Intelligence meetings.

⁷ It is noted that the page shows several pictures of hand symbols used by the M.O.B. gang. Specifically, the page shows a picture of a right hand being held toward the ceiling with the index and pinky fingers extended; another picture shows a hand held up toward the ceiling with the index finger and thumb making what appears to be similar to the "ok symbol" and the middle, ring, and pinky finger are extended upward. Another picture shows a right hand extended forward on an angle and shows the thumb touching the ring finger making an "ok symbol" and the index and middle finger are extended upward. Another picture shows a right hand pointing downward with the index finger extended and the thumb and fingers closed in a fist.

a sufficient basis to remove the appellant's name for falsification of the employment application.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows for the removal an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for an appointment. *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 process.

In the instant matter, the appellant's name should be removed from the subject list. Initially, it must be emphasized that the law enforcement officials conducting the background investigation have significant expertise and experience in matters pertaining to gang-related activity such as the hand-signs and language used by members. In this case, the investigation confirmed that the appellant's pictures matched the depictions of gang-related activity as indicated in the publication entitled "The Gang Manual." The appellant has not provided any substantive information to refute the findings of the law enforcement officials who conducted the background investigation.

Regardless, recognizing the nature of the position at issue, the posts on his social media sites demonstrates that the appellant's background should not make him eligible for an appointment. In this regard, the Commission is not persuaded that the language used, "lmao but im a boss shnow dat blood soowu five star shine gang if it dnt make dollars in dnt make sence," or the hand signs that he displays in the pictures, does not evidence gang-related activity. Such activity is not acceptable for an individual seeking a position as a Correction Officer Recruit.

Therefore, the appellant has not conclusively established that he did not falsify his employment application. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Correction Officer Recruit, to ensure that his employment application is a complete and accurate depiction of his history. In this regard, 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 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. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or

forgetting any information at his or her peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

In this case, the appellant's omissions are sufficient cause to remove his name from the eligible list. In this regard, in response to question #66 on the employment application, "Are you now or have you even been affiliated with any organization or groups described in question #65," the appellant answered "No." In response to question #67 on the employment application, "Are you associated with, or have ever associated with any individuals including relatives who you know or have reason to believe are or have been members of any organization or groups described in #65, the appellant answered "No." Given the evidence in the record, it is highly unlikely that the appellant was not aware that his language, gestures and associations touched on gang culture. The types of omissions presented are clearly significant and cannot be condoned as such information is crucial in an appointing authority's assessment of a candidate's suitability for the position. As such, it is clear that the appellant did not properly provide information in response to the questions on the employment application.

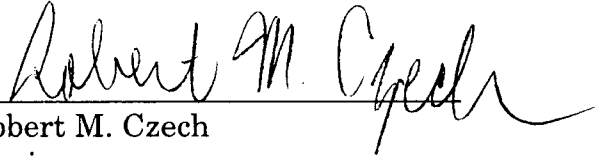
The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his employment application. Further, the images, activity and language he utilized on social media are indicative of his questionable judgment. In this regard, the Commission notes that a Correction Officer Recruit is a law enforcement employee who must help keep order in the State 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 prison guards to present a personal background that exhibits respect for the law and rules. The appellant's behavior is inimical to that goal. As such, there is a sufficient basis to remove the appellant's name from the list.

Accordingly, based on the totality of the record, the appointing authority has submitted sufficient evidence to support the removal of the appellant's name from the eligible list for Correction Officer Recruit (S9988R), Department of Corrections.

ORDER

Therefore, it is ordered that this matter be denied.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 19th DAY OF OCTOBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

- c: Brandon Wadley
- Ronald J. Ricci, Esq.
- Elizabeth Whitlock
- Kelly Glenn



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
Division of Classification & Personnel Management
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Trenton, New Jersey 08625-0313

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

May 11, 2015

Brandon Wadley	Title Correction Officer Recruit Symbol: S9988R Jurisdiction: Department of Correction Certification Number: JU13D01 Certification Date: 05/23/2013
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Initial Determination: Removal – falsification of application

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) 6, which permits the removal of an eligible candidate's name from the eligible list for falsification of application.

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.

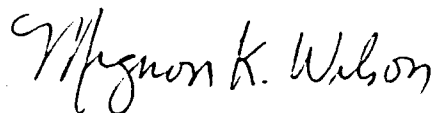
Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, 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:

Brandon Wadley

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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.

A handwritten signature in cursive script that reads "Mignon K. Wilson".

Mignon K. Wilson
Human Resource Consultant