



STATE OF NEW JERSEY

In the Matter of Dale Coleman, Jr.,  
Correction Officer Recruit (S9988T),  
Department of Corrections

FINAL ADMINISTRATIVE  
ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-3230

List Removal Appeal

ISSUED: **NOV 28 2016** (SLK)

Dale Coleman, Jr., represented by Michael L. Testa, Esq., appeals the Department of Corrections' decision to remove his name from the eligible list for Correction Officer Recruit (S9988T), Department of Corrections, 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, contending that he had falsified his employment application. Specifically, it claimed that the appellant failed to disclose that he was a defendant to a Temporary Restraining Order (TRO) that was issued on April 17, 2015 and that he failed to disclose a criminal mischief charge that was issued on September 27, 2006.

On appeal, Mr. Coleman states that he did provide a copy of the TRO Order of Dismissal with his employment application. With respect to the 2006 criminal mischief charge, the appellant presents that he was never arrested for this incident. He explains that it was initially thought that he was involved in a collision with another motor vehicle. However, once it was determined that he was not the individual involved, the charge against him was dismissed. The appellant asserts that he asked the Franklin Township Municipal Court for his record of dispositions

and was only provided with a dismissal of the simple assault charge. He states that he was unaware that there was a criminal mischief charge against him and he did not have any additional information regarding this charge. Nevertheless, since all the charges against him have been dismissed, he maintains that he does not have a criminal record which adversely relates to the position sought.

In reply, the appointing authority states that the appellant does not provide any documentation demonstrating that he submitted his TRO Order of Dismissal with his employment application. Furthermore, it presents that question 55 on the application asked if he had ever been a plaintiff or defendant or involved in any act of domestic violence and he answered, "No." Additionally, it highlights that, although he claims that he had no knowledge that he was ever charged with criminal mischief, he provides documentation on appeal that indicates that he was charged with this offense.

In response, the appellant asserts that he inadvertently indicated that he was never a plaintiff to a TRO. He contends that the reason that he did not indicate on his application that he was a plaintiff in a domestic violence matter is that the court advised him that the incident did not actually constitute domestic violence. Nevertheless, he indicates that he attached the TRO dismissal order to his initial application and hand delivered the TRO dismissal order<sup>1</sup> along with other materials for his application to the appropriate office in Trenton. The appellant also highlights that he completed Juvenile Detention Officer training.

In further reply, the appointing authority points out that Phase 1 and 2 processing did not take place in Trenton and that he did not deliver any documentation to the Human Resources Office in Trenton. It asserts that he did not disclose the TRO and criminal mischief charge on his application and whether or not he submitted paperwork concerning these matters after the fact is not relevant.

## CONCLUSION

*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 removal of an eligible's name from an employment 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. Further, *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.

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<sup>1</sup> The TRO dismissal order indicates that the appellant was the defendant in this matter. However, he states that this was a mistake and he was actually the plaintiff. He presents that the court attempted to fix this mistake by handwriting a "P" next to his name and "D" after the other party's name.

In the instant matter, the appointing authority has presented a valid basis to remove the appellant's name from the subject list. A review of the appellant's employment application indicates that question 46 asked him to list and provide disposition paperwork for all criminal or disorderly persons charges. However, the appellant did not list or provide paperwork regarding a 2006 criminal mischief charge. Although the appellant explains that he was never arrested for this charge and that Franklin Township did not provide him with the record of the disposition of this matter, an applicant must be held responsible for the accuracy of his or her application. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004).

Further, question 55 on the employment application asks if he was ever a plaintiff or defendant or involved in any act of domestic violence and the appellant answered "No." He contends that the court advised him that the TRO incident was not actually domestic violence which is why he answered "No." The appellant also claims that he was the plaintiff in this matter and not the defendant as indicated by the handwritten "P" next to his name on the dismissal order. Additionally, he claims that he did attach the TRO dismissal order with his original application and he says he hand delivered it to the appropriate office in Trenton along with other materials for his application. However, the Domestic Violence Central Registry lists the appellant as the defendant. Further, question 55 asks if the applicant had ever been involved in any act of domestic violence as a **plaintiff** or a defendant. Additionally, it is irrelevant if the court ultimately determined that a domestic violence claim was not sustained as he was clearly a party involved in the adjudication of a domestic violence TRO. Moreover, the appellant does not provide any documentation proving that he submitted the TRO with his application and the appointing authority stated that its Human Resources Office in Trenton did not receive the TRO and that phase 1 and 2 processing did not take place in Trenton.

The appellant also argues that, as these matters have been dismissed, he does not have a criminal record which adversely relates to the position sought. However, the primary issue in this matter is not whether the appellant has an adverse criminal record or even if he intended to deceive the appointing authority, but whether he failed to disclose information that was material to the position sought. See *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003). In this matter, in response to question 46 on his application, the appellant listed a 2002 contempt charge when he was 19 which he says was dismissed and a 2007 simple assault charge when he was 24 to which he indicated that he pled not guilty. Additionally, as described above, the appellant was charged with criminal mischief in 2006 and was involved in a domestic violence incident in 2015. Therefore, even if all these matters were dismissed, as the appellant's multiple negative encounters with law enforcement could have potentially been determined to adversely relate to the position of Correction Officer Recruit, the appointing authority needed this information regarding the criminal mischief charge and the TRO in order to perform

a complete investigation and properly evaluate the appellant's candidacy. *See In the Matter of Robert Hughey* (CSC, decided August 19, 2015). 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.

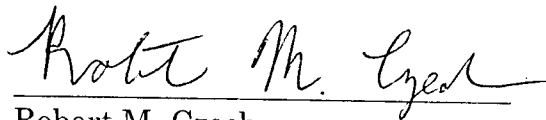
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Correction Officer Recruit (S9988T) eligible list.

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 23<sup>rd</sup> DAY OF NOVEMBER, 2016



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