



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Hector Valentin,
Correction Officer Recruit (S9988T),
Department of Corrections

List Removal Appeal

CSC Docket No. 2017-3426

ISSUED: NOV 02 2017 (HS)

Hector Valentin appeals the removal of his name from the eligible list for Correction Officer Recruit (S9988T), Department of Corrections, on the basis that he falsified his preemployment application.

The appellant, a non-veteran, took and passed the open competitive examination for Correction Officer Recruit (S9988T), which had a closing date of January 8, 2015. The resulting eligible list promulgated on July 23, 2015 and expired on July 22, 2017. The appointing authority requested the removal of the appellant's name due to the falsification of his preemployment application. Specifically, the appointing authority asserted that the appellant failed to disclose that he was charged as a juvenile with improper behavior in violation of *N.J.S.A. 2C:33-2A* in 2003. The charge was dismissed through a successful diversionary program.

On appeal to the Civil Service Commission (Commission), the appellant contends that he did not fail to disclose any charge. Specifically, he notes that he did disclose that he was charged with improper behavior in violation of *N.J.S.A. 2C:33-2A(1)* in 2009. This charge was downgraded, and the appellant paid a fine for violating a noise ordinance. The appellant argues that the charge at issue in this case was received in 2009, not 2003.

In response, the appointing authority argues that the instructions in the preemployment application clearly required candidates to disclose all charges, even if dismissed as a result of successful completion of a diversionary program, and all

juvenile matters. Although the appointing authority does not dispute that the appellant properly disclosed information pertaining to the 2009 charge, it maintains that the appellant failed to disclose the additional 2003 charge. In support, the appointing authority submits a copy of the appellant's preemployment application; documentation from the Family Automated Case Tracking System (FACTS) indicating that the appellant was charged as a juvenile with improper behavior in violation of *N.J.S.A. 2C:33-2A* in 2003 and that this charge was dismissed through a successful diversionary program; and documentation from the New Jersey Automated Complaint System (ACS) indicating that the appellant was initially charged with improper behavior in violation of *N.J.S.A. 2C:33-2A(1)* in 2009, pled guilty to the amended charge of violating a noise ordinance and paid a fine.

It is noted that the appellant did not reply.

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 Commission to remove an eligible's name from an eligible list when he 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 name from an eligible list was in error.

In this matter, the appointing authority maintains that the appellant did not disclose on his application that he was charged as a juvenile with improper behavior in violation of *N.J.S.A. 2C:33-2A* in 2003. In support, the appointing authority provides documentation from FACTS indicating that the appellant received this charge. Further, the documentation from FACTS and the ACS demonstrates that the 2003 charge was distinct from the 2009 charge referenced by the appellant on appeal. Thus, it is clear that the appellant failed to disclose the 2003 charge on his 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. However, in this case, the appellant was 14 years old at the time of the 2003 incident, he indicated on his application that he was suspended from high school in 2003, and the record indicates that the parties to the complaint indicated that it was a misunderstanding that resulted in them being counseled. Under

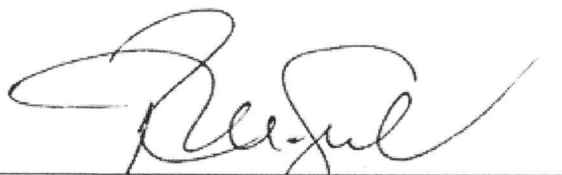
these particular circumstances, the Commission does not find that the appellant intended to withhold information material to the position sought and his name should be restored to the eligible list. However, the remedy in this matter is limited to the specific facts of this case and shall not be utilized a precedent in any other proceeding.

ORDER

Therefore, it is ordered that this appeal be granted, the appellant's name added to the list, and the subject list be revived at the time of next certification so the appellant's name can be considered 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 1ST DAY OF NOVEMBER, 2017



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