



STATE OF NEW JERSEY

In the Matter of Lakeema Rattray,
Correction Officer Recruit (S9999R),
Juvenile Justice Commission

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2018-693

List Removal Appeal

ISSUED: APRIL 2, 2018 (SLK)

Lakeema Rattray appeals the removal of her name from the eligible list for Correction Officer Recruit (S9999R), Juvenile Justice Commission, on the basis of an unsatisfactory background.

By way of background, the appellant's name appeared on certification OS160527 that was issued to the appointing authority on August 1, 2016. In disposing of the certification, the appointing authority requested the removal of the appellant's name, contending that she had an unsatisfactory background. Specifically, the appointing authority presented that while the appellant did disclose on her pre-employment application that she was charged with Harassment in 2013, she failed to disclose that she was charged with Simple Assault in 2008 and Evading Payment in 2012.

On appeal, the appellant states that the appointing authority acknowledged that she submitted paperwork indicating that she was charged with Harassment in 2013 and that matter was withdrawn. However, the appellant presents that she was 14 in 2008 and does not ever recall being charged, jailed, or pleading guilty to any juvenile charge. The appellant does acknowledge that her mother recalls an incident that involved the appellant in middle school, but her mother does not remember that there was any incident that resulted in her being charged with Simple Assault or anything remotely similar to such a charge as the appointing authority alleges. The appellant denies that she was ever charged with Evading Payment as she indicates that she just graduated from high school in 2012 and asserts that she cannot recall

having any financial responsibility until 2014. The appellant argues that the appointing authority should either present documentation demonstrating that she was charged for the incidents that she allegedly did not disclose or her name should be restored to the list.

In response, the appointing authority states that it determined that the appellant had an unsatisfactory background during automated checks into her background and it did not conduct a field investigation. It attaches documentation showing that the appellant was charged with Harassment - Subject Other to Physical Contact due to an incident that occurred in March 2013 and that matter was withdrawn in May 2013.

CONCLUSION

N.J.S.A. 4A:4-4.7(a)11 provides that the name of an eligible may be removed from the 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 his or her name from an eligible list was in error.

In the instant matter, the appointing authority has not substantiated its request to remove the appellant's name from the Correction Officer Recruit (S9999R), Juvenile Justice Commission eligible list. The Civil Service Commission (Commission) notes that an arrest may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. *See Tharpe v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992). However, in this case, there is only supporting documentation for one incident, a 2013 Harassment charge, and that matter was withdrawn. Clearly, an arrest for one Harassment charge that was withdrawn, without more information, does not demonstrate a background that is unsuitable for a position as a law enforcement officer. Further, the appellant contends that she is not aware of the other incidents that the appointing authority alleges that she failed disclose and without such confirming documentation, it would be unfair to hold these alleged incidents against her. While the appellant acknowledges that she was involved in some incident in middle school, which she did not disclose; she claims that this incident did not result in a Simple Assault charge. It is well established juvenile arrests may be disclosed to the appointing authority, *see Dugan v. Police Department, City of Camden*, 112 *N.J. Super.* 482 (App. Div. 1970), *cert. denied*, 58 *N.J.* 436 (1971), and it may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. *See In the Matter of Tracey Shimonis*, Docket No. A-3963-01T3 (App. Div. October 9, 2003). However, as the appointing authority has not provided any supporting documentation to show that appellant was actually charged as a juvenile with Simple Assault, the record is insufficient to find that appellant had an unsatisfactory background.

Accordingly, the appellant has met her burden of proof in this matter and the appointing authority has not shown sufficient justification for removing her name from the eligible list for Correction Officer Recruit (S9999R), Juvenile Justice Commission.

ORDER

Therefore, it is ordered that this appeal be granted and the list for Correction Officer Recruit (S9999R), Juvenile Justice Commission 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 DAY OF , 2018



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