



**STATE OF NEW JERSEY**

In the Matter of Robert T. Davies,  
Jr., Correction Officer Recruit  
(S9999R), Juvenile Justice  
Commission

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

CSC Docket No. 2018-1798

List Removal Appeal

**ISSUED: MARCH 29, 2018 (JET)**

Robert T. Davies, Jr. appeals the removal of his name from the Correction Officer Recruit (S9999R), Juvenile Justice Commission, eligible list on the basis of failure to appear and/or complete pre-employment processing.

The appellant took the open competitive examination for Correction Officer Recruit (S9999R), Juvenile Justice Commission, achieved a passing score, and was ranked on the resultant eligible list. The appellant's name was certified on August 1, 2016 (OS160527). In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of failure to appear and/or complete pre-employment processing. The (S9999R) list expired on March 22, 2017.

On appeal, the appellant maintains that he appeared from pre-employment processing, and he participated in pre-employment screening on September 15, 2016 at the Sea Girt Training Academy.<sup>1</sup> Further, the appellant contends that he was interviewed by a Senior Parole Officer in October 2016 in furtherance of the appointing authority's background investigation. In addition, the appellant states that after he received a certification disposition notice dated August 14, 2017 indicating that his name was removed from the list, he was eventually informed by a representative at the appointing authority that his name should not have been removed from the list as a clerical error occurred with respect to his participation in

<sup>1</sup> The record indicates that the appellant was also scheduled for fingerprinting on September 24, 2016.

pre-employment processing. Moreover, the appellant asserts that the appointing authority did not provide any evidence to show that he did not complete pre-employment processing.

Despite being provided with the opportunity, the appointing authority did not provide a response or any documentation evidencing that the appellant did not complete or appear for pre-employment processing.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)11 allows the removal an eligible's name from an eligible list for other valid reasons. *N.J.A.C.* 4A:4-4.7(b)1 provides that upon request of the eligible or upon the eligible's appeal, the appointing authority shall provide the eligible with copies of all materials sent to the appropriate Civil Service Commission (Commission) representative when it disposed of the certification. *N.J.A.C.* 4A:4-4.7(b)2 provides that, if the appointing authority fails to provide the eligible with copies of materials, the request for removal may be denied. *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.

It is initially noted that the appointing authority has the authority and ability to require potential new hires to undergo pre-employment processing to ensure that the candidate is qualified for appointment. Such pre-employment processing may include any and all conditions necessary for an appointing authority to assess a candidate's qualifications. Further, this information is important as it serves the important function of informing the appointing authority as to any significant differences between candidates which may assist it in the selection process. *See in the Matter of Bruce C. Cooke* (MSB, decided May 8, 2001); *In the Matter of James Smith* (MSB, decided April 24, 2001).

In this matter, the appellant argues that he appeared for pre-employment processing on September 15, 2016. Although the appointing authority indicated that the appellant did not appear for pre-employment processing, it did not provide any arguments on appeal or any substantive evidence in support of that claim pursuant to *N.J.A.C.* 4A:4-4.7(b)1. Pursuant to *N.J.A.C.* 4A:4-4.7(b)2, the appointing authority was notified that failure to provide such information *may* result in the request for removal being denied. Without any substantive evidence to show that the appellant did not appear and/or complete pre-employment processing, the appellant's removal cannot be upheld.<sup>2</sup> Accordingly, the appellant has met his burden of proof in this matter as the appointing authority has not shown sufficient

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<sup>2</sup> As the appointing authority did not respond, there is no way for the Commission to ascertain whether the appellant was fingerprinted on September 24, 2016. Without such information from the appointing authority, the Commission must assume the appellant appeared on that date as required.

justification for removing his name from the Correction Officer Recruit (S9999R), Juvenile Justice Commission, eligible list.

**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 27<sup>th</sup> DAY OF MARCH, 2018



Deirdre L. Webster Cobb  
Acting Chair  
Civil Service Commission

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