

B-5



STATE OF NEW JERSEY

In the Matter of Andre Dorcent, Jr.,
Correction Officer Recruit (S9988R),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-1735

List Removal Appeal

ISSUED: JUL 17 2015 (JET)

Andre Dorcent, Jr., appeals the attached decision of the former Division of Classification and Personnel Management (CPM),¹ 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 on the basis of failure to appear for pre-employment processing.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R), achieved a passing score, and was ranked on the resultant eligible list. It is noted that the eligible list for Correction Officer Recruit (S9988R) initially expired on May 22, 2015 but was revived and extended until a new list is available. See *In the Matter of Correction Officer Recruit* (CSC, decided June 3, 2015). The appellant's name was certified on May 23, 2013 (JU13D01). 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 for pre-employment processing. Specifically, the appointing authority indicated that the appellant was scheduled and failed to appear for pre-employment processing on June 5, 2014. On appeal to CPM, the appellant asserted, among other things, that he did not receive a notice to appear for pre-employment processing. CPM determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligible list.

¹ Now the Division of Agency Services.

On appeal, the appellant submits a sworn notarized letter indicating, among other things, that he did not receive the notice to appear for pre-employment processing.

In response, the appointing authority maintains that it sent a notice of certification to the appellant by regular mail on March 17, 2014. The appointing authority explains that the notice of certification clearly indicates that "failure to keep any scheduled appointment resulting with this notice will cause your name to be removed from the eligible list." Further, the appellant responded to the notice of certification by e-mail dated March 19, 2014. The appointing authority avers that it notified the appellant by e-mail on March 25, 2014 that his response was received and he would not be scheduled for pre-employment processing at that time. However, the appointing authority requested the appellant to complete an employment application in anticipation of being scheduled for pre-employment processing. In addition, the appointing authority contends that it notified the appellant by e-mail on May 8, 2014 that he was scheduled to appear for pre-employment processing on June 5, 2014. The appointing authority confirms that it sent the May 8, 2014 notice to the e-mail address that was provided by the appellant. Moreover, the appointing authority asserts that the appellant was properly removed from the eligible list since he failed to 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:4-6.3(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 did not appear for pre-employment processing on June 5, 2014 because he did not receive the appointing authority's e-mail notifying him of the scheduled date for pre-employment processing. In support of his contentions, the appellant submits a sworn notarized

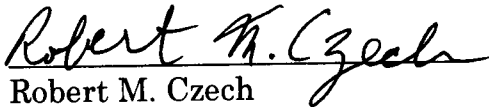
letter stating that he did not receive any notice of a date to appear for pre-employment processing for the subject title. *See In the Matter of Salena Bradley* (CSC, decided July 16, 2014) (Commission restored appellant's name to the Correction Officer Recruit (S9988R) eligible list as she submitted a sworn notarized statement that she had not received the e-mail from the Department of Corrections notifying her of the date she was to appear for pre-employment processing). Accordingly, under these circumstances, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient justification for removing his name from the Correction Officer Recruit (S9988R), Department of Corrections eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list 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 15th DAY OF JULY, 2015



Robert M. Czech
Chairperson
Civil Service Commission

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

Attachment

c: Andre Dorcent, Jr.
Jennifer Rodriguez
James Mulholland
Kenneth Connolly



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION & PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Office

November 24, 2014

Andre Dorcent

Title: Correction Officer Recruit
Symbol: S9988R
Jurisdiction: Department of Corrections
Certification Number: JU13D01
Certification Date: 05/23/13

Initial Determination: Removal – Did not appear/complete pre-employment processing

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) 4*, which permits the disqualification of an eligible candidate's name from the eligible list when one has failed to pass preliminary examination procedures.

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.

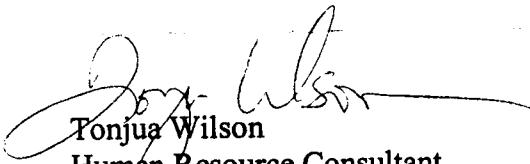
Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Division of Appeals & Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues 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:

Henry Maurer, Director
Division of Appeals & Regulatory Affairs (DARA)
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,



Tonjua Wilson
Human Resource Consultant
State Certification Unit

For Joe M. Hill Jr. Assistant Director
Division of Classification & Personnel Management

C James Mulholland, Director
File

