



**STATE OF NEW JERSEY**

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In the Matter of Kimberly Leshynski,	:	<b>FINAL ADMINISTRATIVE ACTION</b>
Sheriff's Officer (S9999U), Monmouth	:	<b>OF THE</b>
County and Correction Officer	:	<b>CIVIL SERVICE COMMISSION</b>
Recruit, Juvenile Justice Commission	:	
(S9999U), Juvenile Justice	:	
Commission	:	
	:	List Removal Appeal
	:	
CSC Docket Nos. 2019-278 and 2019-	:	
284	:	

**ISSUED: DECEMBER 21, 2018 (SLK)**

Kimberly Leshynski appeals her removals from the eligible lists for Sheriff's Officer (S9999U), Monmouth County, on the basis of failure to respond to the certification notice and Correction Officer Recruit, Juvenile Justice Commission (S9999U), Juvenile Justice Commission (JJC) on the basis of falsification. These appeals have been consolidated as they concern the same individual.

By way of background, the appellant's name appeared on certification OL180230 that was issued to Monmouth County on March 9, 2018. In disposing of the certification, Monmouth County requested the removal of the appellant's name, contending that she failed to respond to the certification notice. Additionally, the appellant's name appeared on certification OS170539 that was issued to the JJC on August 16, 2017. In disposing of the certification, the JJC requested the removal of the appellant's name, contending that she falsified her pre-employment application. Specifically, its background report indicated that while the appellant listed an arrest for Simple Assault in 2014 on her application, she failed to disclose July 31, 2000 and September 7, 2000 summonses in Ocean Township for Identity Crime/Impersonation, which were dismissed.

On appeal, concerning the allegation that the appellant failed to respond to the OL180230 certification, she presents that she signed up for a service from the post office called, "Informed Delivery." She explains that she receives an e-mail every day that she has mail and packages scheduled to be delivered to her from the post office. The appellant states that as part of this service, she receives a picture of each piece

of mail that is delivered to her. The OL180230 certification indicates that the notice was sent to her on March 16, 2019. She submits the photographs from the post office of the mail that was delivered to her between March 6, 2018 to March 26, 2018 to prove that this certification notice was not sent to her. In this regard, the subject certification notice is not indicated in these photographs.<sup>1</sup>

In reference to certification OS170539, the appellant presents that the complaints from 2000 that she allegedly falsified indicate that the defendant was Kimberly Leshynski. She highlights that these complaints do not have a birthday or social security number for the defendant. Further, she indicates that the complaints identify Franklin D. Horton as the complainant. The appellant represents that Horton is her mother's, Kim C. Leshynski, ex-boyfriend. She states that when Horton pressed charges against her mother, he did not provide her mother's birthday or social security number. In further support, the appellant submits a recent police report from the Ocean Township Police Department which confirms that the appellant, Kimberly A. Leshynski, would have been 11 years old at the time of the complaints in question and that a search of her mother's criminal history revealed these complaints.

In response, the JCC submits the complaints from the New Jersey Automated Complaint System. It did not specifically respond to the appellant's assertion that these complaints were issued against her mother and not her.

## 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 Civil Service Commission (Commission) to remove 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.

*N.J.A.C.* 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification."

*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> This agency did not send Monmouth County a notice of the appellant's appeal as the appellant submitted proof that she did not receive the OL180230 certification notice and the appointing authority would not be able to present any argument or evidence to refute this other than to say it never received her response, which is consistent with her claim. Typically, in such matters, this agency would automatically restore the appellant's name administratively. However, as there is also a second appeal concerning the subject list which the Civil Service Commission needs to address, the two appeals have been consolidated.

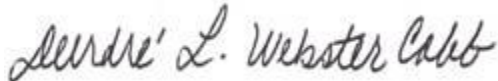
In the instant matter, the appellant provided proof, using the post office's "Informed Delivery" service, that she did not receive the notice for the OL180230 certification. Additionally, concerning certification OS170539, the appellant states that the complaints that she allegedly falsified are a case of mistaken identity. In support of her claim, she submits a police report that indicates that the appellant would have been 11 years old at the time of the complaints and that these complaints were found under her mother's criminal history and not her criminal history. Further, the appointing authority has not submitted any evidence to refute the appellant's claim. Accordingly, the Commission finds that the appellant has met her burden of proof in both matters by demonstrating that she did not receive certification OL180230 and the alleged falsification concerning certification OS170539 was a case of mistaken identity.

### ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the (S9999U) 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 19<sup>th</sup> DAY OF DECEMBER, 2018



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