



STATE OF NEW JERSEY

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

In the Matter of Brian Liess, Police
Officer (S9999U), Wildwood Crest

List Removal Appeal

CSC Docket No. 2020-1704

ISSUED: JUNE 19, 2020 (HS)

Brian Liess appeals the removal of his name from the eligible list for Police Officer (S9999U), Wildwood Crest on the basis that he failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the open-competitive examination for Police Officer (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated on March 29, 2017 and expired on March 30, 2020.¹ The appellant's name was certified to the appointing authority on March 26, 2019 (OL190326) with a notice date of April 2, 2019. Certification notices instruct individuals to write to the appointing authority within five business days of the notice date to let it know whether or not the individual is interested in the position. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the certification notice. The appellant was sent a Certification Disposition Notice with a notice date of June 20, 2019 advising that his name had been removed from the eligible list.

In his appeal to the Civil Service Commission (Commission), postmarked December 20, 2019, the appellant initially maintained that he was not aware of the reason his name had been removed. The Division of Appeals and Regulatory Affairs advised the appellant of the reason, as described above, and also advised him that his appeal had not been filed within the regulatory timeframe. The appellant was

¹ The eligible list was extended one year to March 30, 2020.

afforded the opportunity to submit arguments addressing the timeliness of his appeal and his disposition on certification OL190326.

In response, the appellant noted that he has responded to various other certifications (OL190124, OL190608 and OL190849). He asserted that it was not until December 2019, when it came to his attention that his name did not appear on a new Police Officer certification issued to Ocean City, that he learned of the removal of his name. He claimed not to have been aware of the removal until that point. The appellant also requested that this matter be presented to the Commission for a determination.

CONCLUSION

Initially, a list removal appeal must be filed within 20 days of notice of the action. See *N.J.A.C.* 4A:4-4.7(d), *N.J.A.C.* 4A:4-6.3(a)3 and *N.J.A.C.* 4A:4-6.6(a)1. The appeal must be filed with an appropriate representative of the Commission as indicated on the notice advising of removal. See *N.J.A.C.* 4A:4-6.6(a)2. In this matter, the appellant was sent a Certification Disposition Notice with a notice date of June 20, 2019. However, the appellant's appeal was not postmarked until December 20, 2019. Moreover, he has not presented substantive evidence, such as an affidavit, of non-receipt of the Certification Disposition Notice. Thus, this appeal appears untimely. Nevertheless, even assuming this appeal was timely filed, there is no basis for relief, as discussed below.

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 name from an eligible list was in error. The appointing authority requested the removal of the appellant's name from the eligible list on the basis of his failure to respond to the March 26, 2019 (OL190326) certification notice. Although the appellant identified various other certification notices he has responded to, he did not specifically explain why he could not respond to certification OL190326. Accordingly, the appellant has not met his burden of proof.

ORDER

Therefore, it is ordered that this appeal be denied.

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
17TH DAY OF JUNE, 2020

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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