

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Nicholas Martin,  
Correctional Police Officer (S9999U),  
Department of Corrections

List Removal Appeal

CSC Docket No. 2020-490

ISSUED: APRIL 12, 2021 (EG)

Nicholas Martin appeals the removal of his name from the Correctional Police Officer (S9999U), Department of Corrections eligible list due to an unsatisfactory employment record and falsification of his pre-employment application.

The subject eligible list was promulgated on March 29, 2017 and expired on March 30, 2021. In disposing of the certification, the appointing authority requested that the appellant's name be removed from the subject eligible list due to an unsatisfactory employment record and falsification of his pre-employment application. Specifically, it asserted that the appellant was terminated from Tree Top Nursery in August 2015 for insubordination and that he had received a written reprimand dated May 22, 2018 and a Preliminary Notice of Disciplinary Action (PNDA) dated August 14, 2018 from his current employer Lawrenceville Township Public Works for poor work performance. Further, it contends that on his preemployment application the appellant indicated that he resigned in good standing from Tree Top Nursery when he had been terminated.

On appeal, the appellant indicates that he was not terminated from Tree Top Nursery but had resigned in good standing. In support of his contention he submits a notarized letter dated August 1, 2019 from the President of Tree Top Nursery indicating that the appellant and the company had mutually agreed for the appellant to seek employment elsewhere and that the appellant had never been disrespectful to him. In this regard, he contends that since he was not terminated, he did not falsify his application. Additionally, he argues that while he had received some reprimands from Lawrenceville Township, he continues to receive assignments where he requires little to no supervision. Further, the appellant asserts that he owns his own landscaping business which has had no complaints filed with the Better

Business Bureau. Finally, he states that on the preemployment application he listed other employment in which he never received any discipline or complaints.

In response, the appointing authority reiterates the appellant's unsatisfactory employment history and the falsification of his preemployment application and argues that he is not a suitable candidate for Correctional Police Officer. In support of its contentions the appointing authority submits a copy of the appellant's application and documentation from former employers. Specifically, it submits a letter Termination/Layoff Report from Tree Top Nursery dated April 19, 2015, indicating that the appellant was terminated for being mouthy and disrespectful to supervisors and other employees; took unauthorized breaks; and would not complete jobs as requested. Also submitted were a written reprimand dated May 22, 2018 and a PNDA dated August 14, 2018 from Lawrenceville Township showing that the appellant had been reprimanded for poor performance and that it was seeking a one-day suspension for the appellant performing poorly. Moreover, the appointing authority states that it strives to select candidates who exhibit a good work ethic and respect for the law as this is imperative to effectively manage the day-to-day operations of a correctional system, and argues that the appellant is not a suitable candidate.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the removal of an individual from an eligible list who has a prior employment history which relates adversely to the position sought. Additionally, *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 Commission to remove an individual from an eligible list who has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. Further, *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. Moreover, *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

In the instant matter, the appellant's name was removed from the eligible list for falsification and an unsatisfactory employment history. The record indicates that the appellant failed to disclose his termination from Tree Top Nursery in 2015. While the appellant submits a letter from the President of Tree Top Nursery, this letter does not contradict the Termination/Layoff Report that appointing authority submits. It is carefully worded to say that they mutually agreed that the appellant should seek

employment elsewhere and that he himself was never disrespected by the appellant. Neither the letter nor the appellant addresses the allegations in the Termination/Layoff Report. The appellant was required to provide a complete and accurate record of his background for review by the appointing authority as part of the pre-employment process. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (A Fire Fighter applicant who alleged he could not recall certain information omitted from an application should be removed from the list since an honest mistake is not an allowable excuse for omitting relevant information from an application). 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 and he has failed to so with regard to his termination and failure to list this termination in his preemployment application. Such information is considered material and should have been accurately indicated on his preemployment application. His failure to disclose this information is indicative of the appellant's lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Correctional Police Officer and the falsification of his pre-employment application presents a basis to remove the appellant's name from the subject eligible list.

Since the appellant is being removed based on falsification of his pre-employment application, it is unnecessary to address his employment history at this time. Accordingly, based on the foregoing, there is ample support in the record to remove the appellant's name from the Correctional Police Officer (S9999U), Department of Corrections eligible list.

### **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 7<sup>TH</sup> DAY OF APRIL, 2021

*Deirdre' L. Webster Cobb*

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