

“Criteria for Removal from the Eligible List” that is attached to the employment application did not specify that any one particular item listed would prevent an applicant from proceeding and that he did not understand that he was being given the choice to withdraw his application or to be removed based on his driving record. Therefore, the appellant requests that his name be restored to the list.

In response, the appointing authority provides a copy of a statement the appellant signed on February 24, 2015 indicating that he was no longer interested in the position of Correction Officer Recruit and acknowledging that he understood that his name would be removed from the eligible list. With respect to the appellant’s argument that he did not understand that he was given a choice to either withdraw his application or be removed for his driving record, the appointing authority emphasizes that its criteria for removal that is provided to all applicants clearly states:

HAS TWO (2) OR MORE CONVICTIONS FOR OPERATING A
MOTOR VEHICLE UNDER THE INFLUENCE OF DRUGS OR
ALCOHOL.

Further, the appointing authority notes that the appellant was not removed due to his driving record, rather, he was removed because he signed a form acknowledging that he was no longer interested in the position. Regardless, it underscores that it clearly indicated the removal criteria for driving records and the appellant’s multiple DUIs would fall under that criteria for removal.

Although provided the opportunity, the appellant did not submit any additional information or argument for the Commission to review.

CONCLUSION

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 removal of 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. *N.J.A.C.* 4A:4-4.7(a)3 provides that an eligible’s name can be removed from a list for unavailability to accept employment. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a law enforcement officer.

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.

In the matter at hand, the record evidences that it was appropriate to remove the appellant's name from the subject list. Notwithstanding the appellant's argument he did not understand if he was being given the choice to withdraw his application on the day of his pre-employment processing or be rejected based on his driving record, the Reasons for Leaving Pre-Employment Processing form signed by the appellant on February 24, 2015 indicated:

I am no longer interested in the position of Correction Officer Recruit for the New Jersey Department of Corrections. I understand that my name will be **REMOVED** from the NJDOC Correction Officer Recruit eligible list.

The appellant placed his initials next to this statement indicating that this was the reason he was leaving pre-employment processing and signed the bottom of the form. It is also noted that the Reason for Leaving Pre-Employment Process form has multiple reasons that a candidate can select for leaving pre-employment processing, including two that would result in an eligible's name being inactivated but retained on the list that included instructions to contact the appointing authority when available for further processing. Thus, the appellant clearly had the opportunity to merely inactivate his name at that time but he requested that his name be removed from the list. Given that the subject list has expired and the appellant requested that his name be removed from the S9988R eligible list, even assuming the appellant's driving record was not at issue, there would be no basis to restore his name to the subject list.

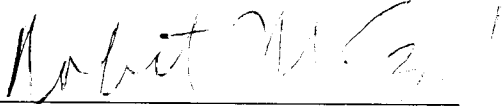
Additionally, as noted by the appointing authority, an eligible for a law enforcement title, such as Correction Officer Recruit, may be removed from the list based on his or her driving record since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a law enforcement officer. However, since the appellant clearly indicated that he understood that his name would be removed from the list when he left pre-employment processing on February 24, 2015 and there is no evidence that the instructions he was provided were unclear or that he did so under duress, it is not necessary for the Commission to address his driving record. Accordingly, the appointing authority has presented sufficient cause to remove the appellant's name from the subject list 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 23rd DAY OF NOVEMBER, 2016



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