

B-33



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Khiry Alston,
Correction Officer Recruit (S9988R),
Department of Corrections

List Removal Appeal

CSC Docket No. 2017-1003

ISSUED: ~~APR~~ 21 2017 (HS)

Khiry Alston appeals the removal of his name from the eligible list for Correction Officer Recruit (S9988R), Department of Corrections, on the basis of an unsatisfactory driving record.

The appellant, a non-veteran, took and passed the open competitive examination for Correction Officer Recruit (S9988R), which had a closing date of January 14, 2013. The resulting eligible list promulgated on May 23, 2013 and expired on March 29, 2017.¹ The appointing authority requested the removal of the appellant's name on the basis of an unsatisfactory driving record. The appellant's driver abstract indicated the following violations:

Violation Date	Violation
August 11, 2015	Obstructing passage of other vehicles
May 15, 2015	Maintenance of lamps
August 24, 2014	No license, registration or insurance ID in possession
July 20, 2014	No license, registration or insurance ID in possession
May 17, 2014	No license, registration or insurance ID in possession

¹ In *In the Matter of Correction Officer Recruit (S9988R)* (CSC, decided January 18, 2017), the Civil Service Commission revived and extended the eligible list until a new list promulgated.

May 7, 2014	No license, registration or insurance ID in possession
November 2, 2013	Speeding
January 30, 2013	Driving while suspended parking ticket
February 17, 2012	Unlicensed driver
September 16, 2011	Wrong way on one way street
April 6, 2011	Improper display/fictitious plates
February 19, 2011	Unsafe operation of a motor vehicle
October 3, 2010	Unsafe operation of a motor vehicle
May 30, 2010	Failure to wear seatbelt
May 29, 2010	Speeding
January 28, 2010	Speeding
August 13, 2009	Provisional driver restriction

The abstract also indicated that the appellant's license was suspended between the following dates: December 24, 2014 and January 16, 2015; August 17, 2014 and August 31, 2014; June 27, 2014 and August 11, 2014; May 11, 2014 and June 6, 2014; January 15, 2013 and February 14, 2013; November 19, 2011 and November 30, 2012; September 9, 2011 and October 12, 2011; and April 25, 2011 and August 12, 2011.

On appeal to the Civil Service Commission (Commission), the appellant states that he has become more responsible and knowledgeable about the importance of a clean driving record and has shown incredible maturity in the last couple of years based on previous encounters. His license is now in good standing. In the past three years, he has paid off all fines and surcharges and attended court to resolve each matter. The appellant guarantees that his driving record will remain in compliance with State requirements.

In response, the appointing authority argues that Correction Officer Recruits are law enforcement employees who are expected to follow policy and procedures to ensure a safe environment in the institutions for all individuals. If a candidate's driving record reflects a pattern of recklessness in the operation of a vehicle, driving without a valid license or proof of insurance, and having little regard for motor vehicle laws, then the appointing authority may preclude that individual from moving forward in the hiring process as such attributes are not acceptable for a Correction Officer Recruit.

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 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. 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. See *In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998). *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.

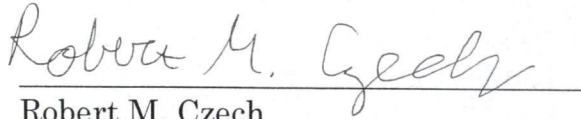
The controlling issue in this case is that the appellant's driving record reflects numerous recent violations and license suspensions, several of which occurred during the life of the eligible list. As such, the appellant's record revealed a persistent disregard for the motor vehicle laws, behavior that is incompatible with the duties of a law enforcement officer. See *Brendan W. Joy v. City of Bayonne Police Department*, *supra*. Such conduct is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of the duties of a Correction Officer Recruit. In this regard, it is recognized that a Correction Officer Recruit is a law enforcement employee who must help keep order in the State prisons and promote adherence to the law. Correction Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and the image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). See also, *In re Phillips*, 117 *N.J.* 567 (1990). The public expects prison guards to present a personal background that exhibits respect for the law and rules. Accordingly, there is a sufficient basis to remove the appellant's name from the subject 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 19TH DAY OF APRIL, 2017



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