



STATE OF NEW JERSEY

In the Matter of Daniel Abalihi,
Correction Officer Recruit (S9999R),
Juvenile Justice Commission

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

CSC Docket No. 2018-745

List Removal Appeal

ISSUED: APRIL 9, 2018 (SLK)

Daniel Abalihi appeals the removal of his name from the eligible list for Correction Officer Recruit (S9999R), Juvenile Justice Commission, on the basis of an unsatisfactory background.

By way of background, the appellant applied to the subject examination, which had a September 4, 2013 closing date, and his name appeared on certification OS160527 that was issued to the appointing authority on August 1, 2016. In disposing of the certification, the appointing authority requested the removal of the appellant's name, contending that he had an unsatisfactory background. Specifically, the appointing authority presented that the appellant was charged with Domestic Violence Assault due to an incident in which he indicated he struck his wife on her face in 2011. Additionally, the appellant was charged with Driving While Intoxicated (DWI) in 2014. Further, he indicated that the Department of Corrections (Corrections) removed his name from an eligible list. Moreover, the appellant failed to disclose that he was arrested in East Orange for Contempt of Court. He also failed to disclose his employment with Central Parking Systems of New York.

On appeal, the appellant states that he has met all the requirements for the position including possessing a Bachelor's degree in Criminal Justice and he believes that he does not have a background that adversely relates to the position sought. He presents that the Domestic Violence charge involved an incident with his girlfriend and not his wife. He attaches a disposition letter from the East Orange Municipal Court to show that the matter was dismissed. The appellant acknowledges that he

was charged with DWI and speeding in 2014 in New York. He submits the disposition papers from the Criminal Court of the City of New York to show that the DWI charge was dismissed and he pled guilty to speeding and paid a \$150 fine. With respect to the East Orange Contempt of Court charge, the appellant states that he did indicate on his application that he was arrested in East Orange although he did not understand the reason for the arrest. Therefore, he claims by indicating on his application that he was arrested by the East Orange Police, he disclosed this arrest as best as he understood it and in good faith. The appellant represents that he did not remember that he was employed by Central Parking System approximately 20 years ago and therefore this omission was not done in bad faith. He asserts that Corrections' removal from its eligible list should not bar him from competing for opportunities from other State agencies in which he expresses an interest.

In reply, the appointing authority submits documentation to support its reasons for the removal of the appellant's name as stated above.

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 Civil Service Commission (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.

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.

The Commission notes that an arrest may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. *See Tharpe v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992).

In the instant matter, the appellant's background clearly provides a basis for removal from the subject list. In 2011, the appellant was charged with Domestic Violence Assault. Thereafter, in 2014, he was charged with DWI, which he led him to plead guilty to speeding and pay a fine. The appellant's multiple adverse encounters with law enforcement, including an incident after the subject examination's September 4, 2013 closing date, demonstrate his questionable judgment, which is unacceptable for applicants who seek positions in law enforcement. In this regard, it is recognized that a Correction Officer Recruit is a law enforcement employee who must help keep order in the 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 an 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 Correction Officers to present a personal background that exhibits respect for the law and rules.

Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the list for Correction Officer Recruit (S9999R), Juvenile Justice Commission.

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 4th DAY OF APRIL, 2018



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