

circumstances where the candidate, in his or her prior employment, resigned while disciplinary charges were pending or resigned in good standing in lieu of discipline. Additionally, it presents that certain disqualifications, including an eligible's adverse employment history, carry forward onto subsequent eligible lists. In this case, the appointing authority underscores that the appellant's appeal of his resignation as a Police Officer with Nutley and removal from the Essex County Sheriff's Officer eligible list for an unsatisfactory background report were denied by the Commission. *See In the Matter of Timothy Walsh* (CSC, decided November 18, 2015). Finally, the appointing authority maintains that the appellant's questionable postings on the internet and song lyrics that contain sexist and racist content clearly demonstrates a blatant disrespect for the law. In support of its contentions, the appointing authority provides voluminous copies of various publicly available conversation on chat boards, the appellant's profile webpage, and the appellant's blog that contain numerous sexist and racist comments and song lyrics that he authored.

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.

In this matter, it was appropriate to remove the appellant's name from the subject list. The Commission has removed candidates from eligible lists under circumstances where the candidate, in his or her prior employment, resigned while disciplinary charges were pending or resigned in good standing in lieu of discipline. *See Strasser v. Camden County* (MSB, decided May 28, 1992) (Removal of an eligible from an open competitive list based on the eligible's employment history which showed that he had resigned while disciplinary charges imposing a removal were pending was upheld). *See also, In the Matter of Darren Grossman* (MSB, decided January 17, 2001) (Appellant's employment history as a Police Officer with Jackson Township was sufficient to remove him from the Police Officer, Township of Marlboro, eligible list since he resigned in good standing in exchange for Jackson not proceeding with disciplinary charges).

The appellant indicated on his application that he resigned from the Nutley Police Department in lieu of facing disciplinary action. Specifically, he indicated that:

I worked as a Police Officer in Nutley from 2011-2012. I chose to resign from the position upon finding out the Nutley Police were going to take disciplinary action. ... I do know that the Police Department claimed I was 'unfit to serve' due to what they perceived as improper content, lyrics, and graphics of some of my music."

Although the appellant was provided with copies of the appointing authority's voluminous submissions in this case, he has not rebutted its findings that his song lyrics posted on the Internet contained sexist and possibly racist terms. The Commission is mindful that Fire Fighters 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. The public expects Fire Fighters to present a personal background that exhibits respect for the law and rules. The appellant's resignation in lieu of discipline as well as his questionable postings on the Internet do not present an image of trust and confidence or exhibit respect for law and rules required to hold the position of Fire Fighter.

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
12TH DAY OF JUNE, 2019

Deirdre' L. Webster Cobb

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