



STATE OF NEW JERSEY

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

In the Matter of Enrique Torres,
Correctional Police Officer (S9999U),
Department of Corrections

List Removal Appeal

CSC Docket No. 2019-1780

ISSUED: JUNE 28, 2019 (HS)

Enrique Torres, represented by Catherine Elston, Esq., appeals the removal of his name from the eligible list for Correctional Police Officer¹ (S9999U), Department of Corrections on the basis of an unsatisfactory driving record.

The appellant, a non-veteran, took and passed the open-competitive examination for Correctional Police Officer (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated on March 29, 2017 and expires on March 30, 2020.² The appointing authority requested the removal of the appellant's name from the list due to an unsatisfactory driving record. The appellant's certified driver abstract indicated eight violations between November 2012 and July 2017 for failure to provide notification of an address change; speeding; driving with an expired license; unsafe operation of a motor vehicle; driving with an expired license for failure to pay a restoration fee; obstructing passage of other vehicle; improper display/fictitious plates; and failure to wear seat belt.³ The appellant's license was suspended from December 21, 2014 to April 8, 2015 due to nonpayment of insurance surcharge.

On appeal to the Civil Service Commission (Commission), the appellant proffers that he does not fall within any of the appointing authority's criteria for removal from the eligible list based on driving record, per the preemployment

¹ Pursuant to *N.J.S.A.* 11A:2-11.1, effective May 1, 2018, the title of Correction Officer Recruit has been retitled to Correctional Police Officer.

² The eligible list was extended one year to March 30, 2020.

³ The last of these violations, failure to wear seat belt, occurred on July 24, 2017.

application. He maintains that his removal from the list is unwarranted as he contends that this is not a case of repeated and serious offenses.

CONCLUSION

Initially, it is noted that the appellant argues that his name cannot be removed from the subject eligible list on the basis of his driving record since his record does not fit within any of the criteria for removal specifically listed in the preemployment application. However, the Commission emphasizes that it must decide each list removal appeal on the basis of the record presented and is not bound by the criteria utilized by the appointing authority. *See, e.g., In the Matter of Debra Dygon* (MSB, decided May 23, 2000).

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.

A review of the record indicates that the appointing authority's request to remove the appellant's name from the subject eligible list was justified. The appellant's driving record reflects several recent violations between November 2012 and July 2017 that reveal a persistent disregard for the motor vehicle laws, behavior that is incompatible with the duties of a law enforcement officer. *See Joy, supra*. The appellant's license was also suspended within that timeframe, and the last violation, in fact, occurred during the life of the eligible list. Such conduct is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of the duties of a Correctional Police Officer. It is recognized that a Correctional Police Officer is a law enforcement employee who must help keep order in the State prisons and promote adherence to the law. Correctional Police 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 26TH DAY OF JUNE, 2019



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