



STATE OF NEW JERSEY

In the Matter of Joseph Simpson,
Correctional Police Officer (S9988V),
Department of Corrections

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

CSC Docket No. 2019-3470

List Removal Appeal

ISSUED: SEPTEMBER 12, 2019 (SLK)

Joseph Simpson, represented by Noelle van Baaren, Esq., appeals his removal from the eligible list for Correctional Police Officer (S9988V), Department of Corrections based on an unsatisfactory background report.

The appellant took the open competitive examination for Correctional Police Officer (S9988V), which had a May 31, 2017 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant had an unsatisfactory background report. Specifically, the appointing authority indicated that the appellant had been arrested and charged with and/or found guilty of assault, possession of a firearm for unlawful purpose, unlawful possession of a weapon, stalking, contempt of court regarding domestic violence (guilty) on multiple occasions, stalking, harassment, and simple assault on two occasions. Additionally, the appellant’s driver’s license had been suspended 22 times. Further, he had been affiliated with a known subversive organization (“East Coast Bad Boyz”).

On appeal, the appellant presents that the most recent arrest occurred over 10 years ago. Additionally, the appellant explains that many of the arrests were precipitated by his ex-wife’s use of the legal system to punish him during his divorce. He indicates that all the charges have either been dismissed, vacated or expunged. Concerning his driver’s license suspensions, the appellant highlights that the suspensions happened over 15 years ago. Further, the suspensions arose from his

inability to make child support payments and/or pay traffic tickets and not from reckless operation of a motor vehicle. The appellant asserts that his removal based on his inability to make payments because of personal financial hardship is discriminatory and unjustifiably punishes him based upon his economic viability and lower middle-class status many years ago. Finally, he denies that the “East Coast Bad Boys” is a “known subversive organization.” He presents that it is a social club for motorcycle aficionados.

In response, the appointing authority presents that the appellant admits to having a lengthy history of domestic violence and contempt of court offenses that date to 1999, with the latest offense being in 2017. The appointing authority indicates that the appellant was sentenced to one year of probation in both 2000 and 2001. Further, his driver’s license was suspended 22 times. Moreover, the appellant admits that he was involved with a subversive organization known as the East Coast Bad Boyz, a motorcycle group.

CONCLUSION

N.J.S.A. 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 provide that an eligible’s name may be removed from an eligible list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

The presentation to an appointing authority of a pardon or expungement shall prohibit an appointing authority from rejecting an eligible based on such criminal conviction, except for law enforcement, correction officer, juvenile detention officer, firefighter or judiciary titles and other titles as the Chairperson of the Civil Service Commission (Commission) or designee may determine. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate’s removal from a Police Officer eligible list to consider whether the candidate’s arrest adversely related to the employment sought based on the criteria enumerated in *N.J.S.A.* 11A:4-11. See *Tharpe v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992).

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.

N.J.A.C. 4A:4-6.3(b) 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 this matter, the appointing authority had a valid reason for removing the appellant's name from the list. Specifically, the appellant has a long history of negative interactions with the law including domestic violence and contempt of court offenses that date to 1999. Additionally, the appellant's driver's license has been suspended 22 times. While most of these negative interactions are not recent and would not be grounds for removal by themselves based on the length of time that has passed, the appellant's application, under the Arrest History section, indicates the he was the recipient of a temporary restraining order in March 2017, which was shortly before the subject examination's May 31, 2017 closing date. On appeal, the appellant does not provide any explanation for this recent negative interaction with the law. Instead, his appeal states, "the most recent arrest and/or charge cited on his criminal history is from over ten years ago." Further, even if the appellant had provided an explanation for this most recent incident, considering the appellant's long history of negative interactions with the law combined with this recent incident, the Commission is concerned that the appellant currently lacks the judgment to be a law enforcement officer as he is still putting himself in positions to have negative interactions with the law. In this regard, it is recognized that a Correctional Police Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correctional Police Officers, like 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 Correctional Police Officers to present a personal background that exhibits respect for the law and rules. Additionally, when asked on question 66 of the application if the appellant was ever affiliated with a subversive organization, he indicated, "Yes," Motorcycle Group "East Coast Bad Boyz" from 1999 – 2005. Now, on appeal, the appellant states that "East Coast Bad Boys" is not a subversive organization, but is a social club for motor cycle aficionados and nothing more. However, the appellant is responsible for the accuracy of his application. *See In the Matter of Harry Hunter* (MSB, decided December 1, 2004).

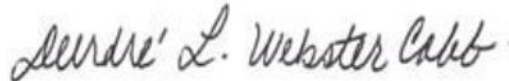
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Correctional Police Officer (S9988V), Department of Corrections eligible list.

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 10th DAY OF SEPTEMBER, 2019



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