



STATE OF NEW JERSEY

In the Matter of Sadiyah Webster,
Correctional Police Officer (S9988V),
Department of Corrections

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

CSC Docket No. 2019-3456

List Removal Appeal

ISSUED: SEPTEMBER 12, 2019 (SLK)

Sadiyah Webster appeals her removal from the eligible list for Correctional Police Officer (S9988V), Department of Corrections on the basis that she possessed an unsatisfactory criminal background.

The appellant took the open competitive examination for Correctional Police Officer (S9988V), which had an May 31, 2017 closing date, achieved a passing score, and was ranked on the subsequent eligible list, which expires on September 27, 2019. In seeking her removal, the appointing authority indicated that the appellant possessed an unsatisfactory criminal background. Specifically, the appointing authority indicated that the appellant was found guilty of a 4th degree unlawful possession of a weapon charge in 2002.

On appeal, the appellant presents that she was only 14 years old at the time of the incident and believes that this incident should not be held against her. She indicates that she previously passed a background check and gained employment with the United States Postal Service. The appellant states that she believed that her juvenile record would be sealed. She presents that, other than parking tickets, she has not had any other negative incidents. The appellant explains that she is applying for the subject position because she wants to help the prison population.

In response, the appointing authority presents that the appellant was charged with a 4th degree unlawful possession of a weapon charge in 2002. This led to her

being found guilty, adjudicated delinquent and sentenced to house arrest. The charge was only dismissed after certain conditions were met. It highlights that conviction of a 4th degree or higher crime is grounds for removal under its criteria.

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).

It is well established that municipal police departments may maintain records pertaining to juvenile arrests, provided that they are available only to other law enforcement and related agencies, because such records are necessary to the proper and effective functioning of a police department. *Dugan v. Police Department, City of Camden*, 112 *N.J. Super.* 482 (App. Div. 1970), *cert. denied*, 58 *N.J.* 436 (1971). Thus, the appellant's juvenile arrest records were properly disclosed to the appointing authority, a municipal police department, when requested for purposes of making a hiring decision. However, *N.J.S.A.* 2A:4A-48 provides that a conviction for juvenile delinquency does not give rise to any disability or legal disadvantage that a conviction of a "crime" engenders. Accordingly, the disability arising under *N.J.A.C.* 4A:4-4.7(a)4 as a result of having a criminal conviction has no applicability in the instant appeal. However, it is noted that although it is clear that the appellant was never convicted of a crime, she has been arrested. While an arrest is not an admission of guilt, it may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. See *In the Matter of Tracey Shimonis*, Docket No. A-3963-01T3 (App. Div. October 9, 2003).

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.

Initially, although the appointing authority argues that the appellant violated its criteria for removal, the Commission notes that it was not bound by criteria utilized by the appointing authority and must decide each list removal on the basis of the record presented. *See In the Matter of Debra Dygon* (MSB, decided May 23, 2000).

In the instant matter, a review of the record indicates that the appellant was adjudicated delinquent for an unlawful possession of a weapon charge at age 14. Further, a review of the appellant's background report indicates that she is gainfully employed, and the appointing authority has not presented any other grounds for the appellant's removal. While the Commission is aware of the high standards for a Correctional Police Officer, a law enforcement position, the Commission finds that ample time has passed for the appellant to have demonstrated sufficient rehabilitation.

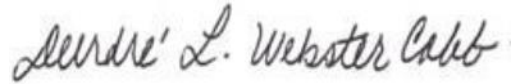
Accordingly, the appellant has met her burden of proof in this matter and the appointing authority has not shown sufficient cause for removing her name from the Correctional Police Officer (S9988V), Department of Corrections eligible list.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the eligible list for Correctional Police Officer (S9988V), to be considered for appointment at the next certification, for prospective employment opportunities only. Further, the Commission orders that should the appellant's name not be certified before the expiration of the Correctional Police Officer (S9988V), Department of Corrections eligible list, the subject eligible list shall be revived so that the appellant may be considered for appointment at the time of the next certification.

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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