



STATE OF NEW JERSEY

In the Matter of Andre Payton,
Police Officer (S9999U), City of
Plainfield

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

CSC Docket No. 2019-992

List Removal Appeal

ISSUED: SEPTEMBER 13, 2019 (JET)

Andre Payton appeals the removal of his name from the Police Officer (S9999U), City of Plainfield, eligible list based on falsification of the employment application.

The appellant took the open competitive examination for Police Officer (S9999U),¹ achieved a passing score, and was ranked on the subsequent eligible list. The appellant’s name was certified on January 30, 2018. In disposing of the certification, the appointing authority requested the removal of the appellant’s name from the eligible list on the basis of falsification of his employment application. Specifically, the appointing authority asserted that, in response to question 126 on the employment application, the appellant did not check “yes” or “no” in response to the question, and he did not list the charges against him. In response to question 137 on the employment application, the appellant indicated that he was arrested twice in two weeks in 1999 in New York when he was a 16 year old juvenile. However, he did not list the charges or provide any explanation of his involvement in the incidents. The appointing authority also indicated that the appellant’s background report did not reflect that he was arrested or indicate any outstanding warrants against him. The appellant also did not list on the employment application that he was employed with Lyft, Uber, and numerous other employers. The appointing authority’s background investigation further revealed

¹ It is noted that the Police Officer (S9999U), City of Plainfield eligible list promulgated on March 29, 2017, and was extended to expire on March 30, 2020.

that appellant was a party to four Temporary Restraining Orders (TRO) either filed against him or other individuals, which were denied and dismissed.

Additionally, it indicated that, in response to question 148 on the employment application, "Have you ever received a summons for violation of the Motor Vehicle Laws in this or any other State, the appellant marked "Yes" and indicated, "An old vehicle registered in my name [that] my brother was using [and] he received numerous violations (parking) which falls on me." The background check revealed that a summons was issued on February 15, 2008 by the Fanwood Police for tinted windows. In response to question 151 on the employment application, "Have you ever been involved in a motor vehicle accident either as a registered owner, operator, passenger or pedestrian, which resulted in any personal injury or property damage to you or anyone else, the appellant marked "No" and indicated "N/A." Moreover, it detailed the appellant's driving record which indicates various infractions including an Automobile Accident on October 7, 2011; Unsafe Operation of a Motor Vehicle on December 2, 2010; and Speeding on April 3, 2009.

On appeal to the Civil Service Commission (Commission), the appellant maintains that he did not falsify the employment application and he requests a hearing. However, he provides no further information.

Despite being provided with the opportunity, the appointing authority did not provide a response.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an individual from an eligible list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. *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, the appellant requests a hearing in this matter. List Removal appeals are generally treated as reviews of the written record. See *N.J.S.A.* 11A:2-6(b). Hearings are granted in those limited instances where the Commission determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. See *N.J.A.C.* 4A:7-3.2(m)2 and *N.J.A.C.* 4A:2-1.1(d). For the reasons set forth below, no material issue of disputed fact has been presented which would require a hearing. See *Belleville v. Department of Civil Service*, 155 *N.J. Super.* 517 (App. Div. 1978); See also, *In the Matter of J.M. and*

Department of Transportation, Docket No. A-4098-08T2 (App. Div. October 19, 2010).

In this matter, it is clear that the appellant did not properly complete the employment application. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Police Officer, to ensure that his employment application is a complete and accurate depiction of his history. In this regard, the Appellate Division of the New Jersey Superior Court in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. See *In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

In this case, the appellant's omissions are sufficient cause to remove his name from the eligible list. In this regard, the appointing authority indicates that the appellant did not completely list the charges against him, include various prior employment and omitted information regarding TROs. Additionally, in response to question 148 on the employment application, "Have you ever received a summons for violation of the Motor Vehicle Laws in this or any other State, the appellant marked "Yes" and indicated, "An old vehicle registered in my name [that] my brother was using [and] he received numerous violations (parking) which falls on me." Additionally, in response to question 151 on the employment application, "Have you ever been involved in a motor vehicle accident either as a registered owner, operator, passenger or pedestrian, which resulted in any personal injury or property damage to you or anyone else, the appellant marked "No" and indicated "N/A." However, the appellant's motor vehicle abstract reveals that the appellant was issued a summons for Unsafe Operation of a Motor Vehicle on December 2, 2010, Speeding on April 3, 2009, and was involved in an Automobile Accident on October 7, 2011. As such, the appellant failed to list those motor vehicle infractions in response to the questions on the employment application. These types of omissions are clearly significant and cannot be condoned as such information is crucial in an appointing authority's assessment of a candidate's suitability for the position. Further, the appellant did not provide any explanations or documentation to refute that he was not involved in those incidents, or, other than his base assertion that he did not falsify the application, provide evidence that he did not falsify the employment application.

The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his employment application. The appellant's failure to disclose the information is indicative of his questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer. In this regard, the Commission notes that a Police Officer is a law enforcement employee who must enforce and promote adherence to the law. 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 Police Officers to present a personal background that exhibits respect for the law and rules. Therefore, there is sufficient basis to remove the appellant's name from the 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



Deirdre L. Webster Cobb
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