



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

In the Matter of Juan Gonzalez, Sheriff's Officer (S9999R), Passaic County

CSC Docket No. 2016-2978

List Removal Appeal

ISSUED: OCT 21 2016 (CSM)

Juan Gonzalez, represented by Shay S. Deshpande, Esq., appeals the removal of his name from the eligible list for Sheriff's Officer (S9999R), Passaic County, on the basis of an unsatisfactory driving record.

In disposing of the July 15, 2015 certification, the appointing authority requested the removal of the appellant's name, contending that he had an unsatisfactory driving record. In its request, the appointing authority indicated that the appellant's driving history included violations for operating a vehicle while his license was suspended, unsafe operation of a motor vehicle, driving while intoxicated (DWI), failure to inspect, speeding, improper passing, fictitious plates and parking offenses. It also noted that his driving privileges were suspended once. In support of its request, the appointing authority provided a copy of the appellant's Certified Driver History abstract.

On appeal, the appellant states that he received a careless driving summons on April 18, 2005 and paid the fine and received two citations in 2005 for improper display of license plates because he was unable to secure the license plates properly to his vehicle. The appellant concedes that he received a ticket in 2005 for failure to give a proper signal and states that he paid the fine. With respect to the DWI, the appellant explains that he was in an accident on July 23, 2005 and was issued a summons for DWI. However, on October 24, 2005, the matter was heard before the Passaic Municipal Court and he was found not guilty. Regarding the failure to comply with the court installation order, the appellant complied with the order and paid the fines. In response to the charge of operating a vehicle while his license was

suspended in 2005, the appellant explains that this occurred because he failed to appear in court when he moved to Clifton and was not aware that his license was suspended. The appellant notes that over a 12-year period, 2005 through 2016, he only received two moving violations. More importantly, he emphasizes that his driving infractions occurred when he was 18 or 19 years old and his last violations occurred more than 10 years ago in 2006. Further, in addition to the amount of time that has passed since his last infraction, the appellant underscores that he is currently employed by the New Jersey Department of Corrections as a Senior Correction Officer. In support of his appeal, the appellant provides copies of his Certified Driver's History abstract, court records showing that he was found not guilty of DWI in 2005, and police reports. Under these circumstances, the appellant maintains that he has demonstrated rehabilitation and that his name should be restored to the list.

In response, the appointing authority reiterates that the appellant has a documented unsatisfactory driving record and states that he was arrested in 2005 for the DWI and for unpaid tickets. It also notes that he was involved in an accident in 2011. Therefore, the appointing authority maintains that the appellant should be removed from the list as he is not a suitable candidate for the position.

### 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 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 Civil Service Commission (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).

While an applicant's driving record may justify list removal when it reflects a disregard for the law and is incompatible with the duties of a law enforcement officer, this is not the case in this situation. In this case, the record establishes that for a period in 2005 and early 2006, the appellant's driver's abstract indicates six motor vehicle violations. Moreover, the appellant provided documentation from Passaic Municipal Court that he was found not guilty of the DWI violation in October 2005 and explained his move from Passaic to Clifton resulted in his not receiving notification that resulted in his license being suspended. In this regard, it

cannot be ignored that the basic driving privileges were suspended for a total of 13 days in 2005 as a result of his move and his license was promptly restored when he paid the restoration fee. Since that time, other than being involved in an accident in 2011, the appellant has not had any motor vehicle violations in over ten years. Further, the appellant is employed as a Correction Officer with the New Jersey Department of Corrections. Therefore, due to the passage of over ten years and his current employment in a law enforcement position, the Commission is satisfied that the appellant has shown evidence of sufficient rehabilitation warranting his restoration to the list.

While the appellant's name is being restored to the eligible list, a review of the certification record indicates that the next two higher ranking eligible were interested in the position, but not reachable for appointment. Therefore, the appellant's name should be recorded as interested, but not reachable for appointment on certification OL150877.

### ORDER

Therefore, it is ordered that this appeal be granted.

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 19<sup>TH</sup> DAY OF OCTOBER, 2016



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