



**STATE OF NEW JERSEY**

In the Matter of Paul Newman, Fire  
Fighter (M1544T), Jersey City

CSC Docket No. 2019-54

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

List Removal Appeal

**ISSUED: NOVEMBER 26, 2018 (SLK)**

Paul Newman, represented by Michael L. Prigoff, Esq. appeals his removal from the eligible list for Fire Fighter (M1544T), Jersey City on the basis of an unsatisfactory background report.

The appellant took the open competitive examination for Fire Fighter (M1544T), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant possessed an unsatisfactory background report.

On appeal, the appellant stated that he anticipated filing additional proofs in this matter after receiving the background report. By letter dated August 31, 2018, the appointing authority provided the appellant with a copy of his background report. Subsequently, the appellant retained counsel and Mr. Prigoff entered his appearance in the matter by letter dated September 18, 2018. Thereafter, by letter dated September 26, 2018, the appointing authority provided a copy of the appellant's background investigation report to counsel.

In response, the appointing authority, represented by James B. Johnston, Assistant Corporation Counsel, indicates that it sent the appellant's attorney a copy of the background report. Further, it states that the appellant was removed from the list for falsifying his application, his arrest history and for having an unsatisfactory driving history. Concerning the falsification, the background report indicates that

the appellant failed to disclose that he worked for Retro Fitness in Bayonne in 2016. Additionally, the appellant omitted employers that he worked for in 2005 and 2006. The background report indicates that the appellant provided an explanation for the omissions by stating that when he was laid off, he worked for a staffing company who placed him with several different companies. With respect to his arrest history, the background report indicates that the appellant was charged with criminal mischief and domestic violence in February 2013 for damaging his mother's bathroom door and smashing her television screen; however, his mother refused to pursue a temporary restraining order and sign the victim/witness notification form. Additionally, in September 2009, he was charged with simple assault due to a fight he had outside a bar. The charges were dismissed in this matter. Further, the appellant was arrested in January 2007 for having an open warrant after failing to pay a fine for a noise violation. He was found guilty and paid the fines. Regarding the appellant's unsatisfactory driving history, the background report indicates that the appellant received 14 motor vehicle summonses between June 2007 and November 2016 and his driving privileges were suspended in 2010 and 2017.

Although given the opportunity and being provided copies of his background report by letters dated August 31, 2018 and September 26, 2018, the appellant did not respond.

## 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.

*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 Civil Service Commission (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:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an eligible's name from an employment 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.

In the instant matter, the appointing authority properly removed the appellant's name from the subject list. Although the appointing authority provided the appellant and his counsel copies of the documentation utilized in support of its request to remove his name from the list on two occasions, the appellant has not presented any argument or information to demonstrate that the decision to remove his name was in error. Therefore, the appellant has not sustained his burden of proof and his appeal is denied on that basis alone.

Regardless, the appointing authority had a valid reason to remove the appellant's name based on his arrest history. The appellant was arrested in 2007, 2009 and 2013. It is noted that the appellant has not provided any explanation for these arrests or any evidence of rehabilitation. Further, even if he had, as the last incident occurred less than three years prior to the August 2015 closing date, there was insufficient time for the appellant to demonstrate rehabilitation. In this respect, the appellant's multiple adverse contacts with law enforcement, including an arrest less than three years prior to the August 2015 closing date, is relevant to the position sought, as such conduct is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of duties of a Fire Fighter. *See In the Matter of Nick Castello* (CSC, decided May 17, 2017). Additionally, the matter of his employment history is unclear and he has presented no argument that a driver's license is not essential for this position. Firefighters are not only entrusted with the duty to fight fire; they must also be able to work with the general public and other municipal employees, especially police officers, because the police department responds to every emergency fire call. Any conduct jeopardizing an excellent working relationship places at risk the citizens of the municipality as well as the men and women of those departments who place their lives on the line on a daily basis. An almost symbiotic relationship exists between the fire and police departments at a fire. *See Karins v. City of Atlantic City*, 152 *N.J.* 532, 552 (1998).

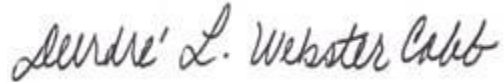
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority have shown sufficient cause for removing his name from the Fire Fighter (M1544T), Jersey City eligible list.

### **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 21<sup>st</sup> DAY OF NOVEMBER, 2018



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