



STATE OF NEW JERSEY

In the Matter of Stacie Sala,
Correction Officer Recruit, Juvenile
Justice Commission (S9999U),
Juvenile Justice Commission

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

CSC Docket No. 2019-297

List Removal Appeal

ISSUED: DECEMBER 21, 2018 (SLK)

Stacie Sala appeals her removal from the eligible list for Correction Officer Recruit, Juvenile Justice Commission (S9999U), Juvenile Justice Commission on the basis that she possessed an unsatisfactory background report.

The appellant took the open competitive examination for Correction Officer Recruit, Juvenile Justice Commission (S9999U), which had an August 31, 2016 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking her removal, the appointing authority indicated that the appellant possessed an unsatisfactory background report. Specifically, the background report indicates that the appellant was found guilty of shoplifting after an August 2011 arrest. Additionally, she had a Driving Under the Influence (DUI) incident which led to her driver's license being suspended for three months.

On appeal, the appellant acknowledges that she was charged with shoplifting in August 2011, which led to her paying a fine and being banned from the store for one year. She presents that she was only 18 years old at the time and she made a mistake due to immaturity. The appellant states that this incident was out of character as she was an "A" student who never had any adverse contact with law enforcement as either a juvenile or an adult. She emphasizes that she did not have any legal representation and she never received any consideration, such as being offered a diversionary program, conditional discharge or community service as a first-time offender. The appellant highlights that, only three years later in 2014, the

Rutgers University Police Department (Rutgers PD) hired her as a Community Service Officer, which included a full background check. Further, she obtained a Master's degree in Criminal Justice, is currently employed by Rutgers PD as a Security Officer, and has not had any other criminal incidents since 2011. Additionally, she recently hired an attorney to expunge her record, which she estimates will take six to eight months. Concerning the DUI, she acknowledges that this incident took place in August 2015 and, after celebrating her 22nd birthday, she made a poor decision to drive after consuming alcohol. She states that she was not acting as herself as she was bothered by the fact that she could not celebrate her accomplishments with her mother, who had passed away in 2013, particularly her graduation from Rutgers in May 2014. The appellant highlights that even though her driver's license was suspended for three months, she still managed to make it to work every day. She presents that she paid a fine, all the insurance surcharges for the next three years, and attended a program at the Intoxicated Driving Resource Center where she learned about the consequences of drinking and driving. The appellant highlights that a DUI offense is not a criminal violation, only impacts her driving record, and it has been over three years since this incident.

In reply, the appointing authority submits its background report in support of its position that the appellant's name should be removed from the eligible list.

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 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. Additionally, the 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).

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 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). Further, in *In the Matter of J.B.*, 386 *N.J. Super.* 512 (App. Div. 2006), the Appellate Division remanded a list removal appeal for further consideration of the impact of the appellant's expunged arrest on his suitability for a position as a Police Officer. Noting that the former Merit System Board relied heavily on the lack of evidence of rehabilitation since the time of arrest, the Appellate Division found that "[t]he equivalent of 'evidence of rehabilitation' is supplied in these circumstances by the foundation for an expungement. See *N.J.S.A. 2C:52-3* and *N.J.S.A. 2C:52-8*.

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, a review of the record indicates that the appointing authority had valid reasons to remove the appellant's name from the list. Initially, the appellant was found guilty of shoplifting, at age 18 in 2011. Thereafter, she was found guilty of DUI, at age 22, due to an incident that took place in August 2015. While the appellant tries to explain these incidents based on immaturity and other circumstances in her life, these incidents show a pattern of disregard for the law and questionable judgment on the appellant's part. Such qualities are unacceptable for an individual seeking a position as a Correction Officer Recruit, Juvenile Justice Commission. In this regard, it is recognized that a Correction Officer Recruit is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correction Officers, like municipal 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 Correction Officers to present a personal background that exhibits respect for the law and rules. While the Commission appreciates the appellant's attempts to rehabilitate, including her education and employment achievements, as the DUI incident took place in

August 2015, which was only one year prior to the subject examination closing date, there was insufficient time for the appellant to demonstrate rehabilitation. It is further noted that while the appellant is now attempting to expunge her record, she was unable to do so as of the closing date. Additionally, even if she had, an expungement alone does not prevent an appointing authority from considering a candidates' criminal record for a law enforcement position.

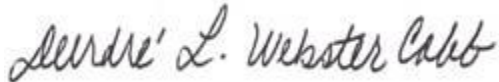
Accordingly, the appellant has not met her burden of proof in this matter and the appointing authority has shown sufficient cause for removing her name from the Correction Officer Recruit, Juvenile Justice Commission (S9999U), Juvenile Justice Commission eligible list. The Commission notes, however, that with the further passage of time, and absent any further adverse incidents, the appellant's background as presented in this matter will be insufficient to remove her from future similar lists.

ORDER

Therefore, it is ordered that these appeals 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 19th DAY OF DECEMBER, 2018



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