



STATE OF NEW JERSEY

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

In the Matter of Christopher Snyder,
Fire Fighter (M1544T), Jersey City

CSC Docket No. 2018-772

List Removal

ISSUED: May 24, 2018 (RE)

Christopher Snyder, represented by Constantine Bardis, Esq., appeals the decision of Jersey City to remove of his name from the eligible list for Fire Fighter (M1544T), Jersey City on the basis of an unsatisfactory background report.

In disposing of the certification, the appointing authority requested the removal of the appellant’s name from the eligible list for an unsatisfactory background report. Jersey City stated that the appellant had a Petty Disorderly Persons conviction, among other things, that required him to forfeit his prior public employment with the Secaucus Police Department and the Secaucus Volunteer Fire Department. Specifically, while in the Army, the appellant was arrested on October 9, 2003 for wrongful use of methamphetamines which resulted in a 15-day confinement and reduction in rank. On November 4, 2003, the appellant was charged with absence while on duty, failure to obey orders, and wrongful use of a controlled substance, found guilty and was confined for 15 days. On November 13, 2015, the appellant was charged with being engaged in prostitution and giving a prostitute cocaine that was amended to a disorderly conduct and forfeiture of his employment with the Secaucus Police and volunteer Fire Departments. It also indicated that the appellant had an adverse employment history as he had to forfeit his job as a Police Dispatcher and volunteer Firefighter. In support, Jersey City provided a copy of its background investigation report.

On appeal, the appellant states that he should not be removed from the list. While he did not provide any initial arguments, he contends that Jersey City’s background report was provided to him in an untimely fashion, three months after

it was requested. He claims that the appointing authority's statement was "unduly prejudicial and defamatory."

In response, Jersey City, represented by James Johnston, Assistant Corporation Counsel, provides a copy of the appellant's background report.

CONCLUSION

N.J.S.A. 11A:4-11 and *N.J.A.C.* 4A:4-2.7(a)4 provide that the 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, fire fighter or correction officer and other titles as determined by the Commission.

In the instant matter, the appellant requests that the appointing authority's response not be considered. However, for the Commission to make a reasoned decision in the matter, the Commission must review a complete record. The appointing authority has provided the Commission representative and the appellant with copies of materials, albeit it not in a prompt fashion. Nevertheless, it is Commission policy to allow the parties time to present their submissions, and additional submissions are not time-barred or excluded based on non-jurisdictional timeliness grounds. The appellant has the burden of proof to show by a preponderance of the evidence that the appointing authority's decision to remove his name from an eligible list was an error.

It must be recognized that, in appeals involving the removal of an eligible's name from a list, Agency Services has already determined that there are sufficient grounds to remove the individual's name from the list since it has recorded the certification as disposed and advised the eligible of appeal rights to the Commission. See *N.J.A.C.* 4A:4-4.7(c). Further, *N.J.A.C.* 4A:4-4.7(b)2 does not mandate restoration of an individual's name to the list and to simply restore an eligible's name to list if the underlying merits in the record otherwise support the removal is contrary to Civil Service law and rules. *N.J.A.C.* 4A:4-4.7(1)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the removal of 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.

In the matter at hand, the record reflects that the appellant was removed from his prior position as a Police Dispatcher with the Secaucus Police Department in January 2016 after being charged with Disorderly Conduct. This occurred only one year prior to his name being certified for appointment consideration. Additionally, he had been arrested in November 2015 for allegedly trading cocaine and a car ride for sex. As to his employment history, his disciplinary record indicates that the appellant received an oral reprimand, a written reprimand, and three suspensions for being late for duty. Also, the appellant was enlisted with the United States Army from January 2003 to December 2003. He was discharged Under Honorable Conditions (General) - Pattern of Misconduct, after being arrested for underage drinking, sleeping while on duty, being late for duty, having his girlfriend in the barracks, and for a positive drug test. During his term, he had been charged with Wrongful Use of Methamphetamines: Hallucinogens, and AWOL, Failure to Obey an Order, and Wrongful Use of Controlled Substance. He has been involved in two motor vehicle accidents, domestic disputes, a dispute at the firehouse with a Firefighter while he was a volunteer Fire Lieutenant, and disputes with others.

In considering the nature of the Fire Fighter position, and the fact that the appellant has served in law enforcement, there is no evidence in the record that the appointing authority's decision to remove the appellant's name from the list was an error. It is recognized that a Fire Fighter occupies a highly visible and sensitive position within the community and the standard for an applicant includes a good character and utmost confidence and trust. Indeed, the removal of eligibles from Fire Fighter lists based on an adverse background have been upheld. *See In the Matter of James Alessio* (MSB, decided March 9, 1999). In that case, the eligible attempted to deceive the appointing authority regarding his three prior arrests and the actual reason supporting his separation from the postal service, *i.e.*, his 1992 conviction for a Federal offense which was committed during this employment. In *Alessio, supra.*, it was concluded that such disregard is unacceptable in a Fire Fighter who operates in the context of a paramilitary organization in which the ability to follow orders is crucial to saving lives. *Karina v. City of Atlantic City* 152 N.J. 532, 552 (1998) was relied upon in that manner, in which the Supreme Court stated:

Fire fighters 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

placed their lives on the line on a daily basis. An almost symbiotic relationship exists between the fire and police departments at a fire.

That the appellant's last arrest for which he was guilty occurred in November 2015 cannot be ignored. In this case, the appellant's multiple adverse contacts over the years are relevant to the positions 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. As noted above, the public expects Fire Fighters to present a personal background that exhibits respect for the law and the rules. Accordingly, given the totality of the circumstances, the appointing authority has presented sufficient cause to remove the appellant's 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 23rd DAY OF MAY, 2018



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