



STATE OF NEW JERSEY

In the Matter of John Voulgarakis,
County Police Officer (S9999U),
Camden County

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

CSC Docket No. 2018-1645

List Removal Appeal

ISSUED: May 25, 2018 (SLK)

John Voulgarakis appeals his removal from the eligible list for County Police Officer (S9999U), Camden County on the basis that he possessed an unsatisfactory criminal background.

The appellant took the open competitive examination for County Police Officer (S9999U), 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 criminal background. Specifically, it represented that the appellant was arrested on June 4, 2010 for criminal mischief and eluding a police officer (eluding), and the charges were dismissed after the appellant completed a Pre-Trial Intervention (PTI) program. The incident involved the appellant, while 18 years old, driving in “donuts” on a grass field of a school causing damage and then speeding away in his car from officers after the officers signaled to him to stop.

On appeal, the appellant acknowledges that he was charged with criminal mischief and eluding when he was 18 years old. He attributes his actions in this matter to his youth and highlights that the charges were dismissed after he completed a PTI program. The appellant asserts that he has been rehabilitated as he has not had any arrests in the eight years since the incident, he has been employed as a collision repair appraiser for over five years and obtained a certification in automotive technology from a community college, he is both a volunteer and paid emergency medical technician and is currently attending college on a part-time basis

in order to earn his Bachelor's degree in criminal justice. The appellant submits several letters of recommendation supporting his character.

In reply, the appointing authority presents that not only does the appellant have an unsatisfactory criminal record due to the 2010 incident, but it asserts that he falsified his application. Specifically, it indicates that the appellant failed to disclose on his application that in addition to being charged with eluding due to the 2010 incident, that incident also led him to be charged with criminal mischief.

In response, the appellant presents that both the criminal mischief and the eluding charges came from the same 2010 incident which he disclosed on both his application and during his interview. Therefore, the appellant asserts that since he indicated that he was charged with eluding, which was the more serious charge, he was not in any way trying to hide this incident and did not falsify his application.

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.

Further, participation in the PTI Program is neither a conviction nor an acquittal. *See N.J.S.A.* 2C:43-13(d). *See also Grill and Walsh v. City of Newark Police Department*, Docket No. A-6224-98T3 (App. Div. January 30, 2001); *In the Matter of Christopher J. Ritoch* (MSB, decided July 27, 1993). *N.J.S.A.* 2C:43-13(d) provides that upon completion of supervisory treatment, and with the consent of the prosecutor, the complaint, indictment or accusation against the participant may be dismissed with prejudice. In *Grill, supra*, the Appellate Division indicated that the PTI Program provides a channel to resolve a criminal charge without the risk of conviction; however, it has not been construed to constitute a favorable termination. Furthermore, while an arrest is not an admission of guilt, it may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. Thus, the appellant's arrest and entry into the PTI program could still be properly considered in removing his or her name from the subject eligible list. *Compare In the Matter of Harold Cohrs* (MSB, decided May 5, 2004) (Removal of an eligible's name reversed due to length of time that had elapsed since his completion of his PTI).

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 Civil Service Commission (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.

A thorough review of the record indicates that the appellant's removal from the (S9999U) eligible list for County Police Officer is not warranted. Concerning the appellant's alleged unsatisfactory criminal record, the record indicates that the appellant was charged with criminal mischief and eluding. While these are not insignificant charges, these charges were not so serious that they should automatically exclude the appellant from consideration for a law enforcement position as the charges were dismissed after the appellant completed a PTI program. Further, the incident occurred when the appellant was 18 years old and took place over six years prior to the August 31, 2016 closing date for the subject examination. Moreover, the incident was an isolated event and the appellant has shown evidence of rehabilitation by his employment as a collision repair appraiser for over five years, his volunteer and paid work as an emergency medical technician and his pursuit of a Bachelor's degree in criminal justice. The Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel. The public expects Police Officers to present a personal background that exhibits respect for the law and rules. See *Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). However, taking into consideration that the appellant's arrest was an isolated incident that occurred in 2010, and the totality of the evidence in the record, the Commission finds that the appellant does not have an unsatisfactory criminal background.

With respect to the appellant's alleged falsification, the record indicates that the appellant indicated that he was charged with eluding due to the June 4, 2010 incident and the charges were dismissed after completing a PTI program. The appellant presented the eluding charge on his application on three different occasions. Therefore, while the appellant may not have specifically indicated that this incident also led to him being charged with criminal mischief, the information that the appellant provided gave the appointing authority sufficient information so that it could investigate this incident and understand the incident in its entirety. As such, there is no evidence that the appellant attempted any deception or fraud by only stating that the incident led to the eluding charge. Therefore, the Commission finds that appellant did provide all the material facts relevant for the appointing authority to review his candidacy and did not falsify his application.

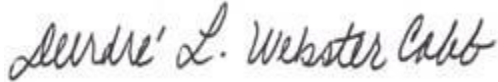
Accordingly, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient justification for removing his name from the eligible list for County Police Officer (S9999U), Camden County.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the County Police Officer (S9999U), Camden County eligible list, for prospective employment opportunities only.

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



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: John Voulgarakis
Emeshe Arzon, Esq.
Kelly Glenn