



STATE OF NEW JERSEY

In the Matter of David Bonsanto,
Sheriff's Officer and County
Correction Officer (S9999U), Passaic
County

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

CSC Docket Nos. 2018-2104 and
2018-3065

List Removal Appeals

ISSUED: SEPTEMBER 7, 2018 (SLK)

David Bonsanto appeals his removal from the eligible lists for Sheriff's Officer and County Correction Officer (S9999U), Passaic County on the basis that he falsified his application. These appeals have been consolidated due to common issues presented.

The appellant took the open competitive examination for Sheriff's Officer and County Correction Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible lists. In seeking his removal, the appointing authority's background reports indicated that the appellant falsified his application. Specifically, it indicated that the appellant did not disclose: (1) three driving summonses issued against him in 2006; (2) that he applied to the Sheriff's Department in 2004 and 2005; (3) that he applied and was hired by the City of Passaic Police Department in 2006; (4) that he was initially removed from Passaic County Correction Officer certification OL041147 and ultimately bypassed as part of his winning the appeal of his removal; and (5) that he was investigated by the Wayne Police Department for assault in 1998 and for a motor vehicle dispute in 2004.

On appeal, the appellant presents the he has lived in Passaic County nearly his entire life, became an Emergency Medical Technician and ended up caring for his sick parents, later became a volunteer Deputy Sheriff for Essex County, got married and had two children, then became a Police Officer for the Passaic Police Department,

subsequently resigned in good standing to care for his children, and is currently employed as a Public Safety Telecommunicator for the Wayne Police Department.

The appellant states that he used his New Jersey Driver's Abstract (Driver's Abstract) to provide his motor vehicle record and the 2006 summonses were not listed. Further, he emphasizes that he did not have access to the systems that the appointing authority used to discover these summonses and explains that he did not remember these summonses prior to this appeal and answered all questions to the best of his knowledge at the time that he filled out his application. The appellant claims that the 2006 summonses arose from separate accidents in 2005 and 2006 where the other parties were deemed at fault and, in retaliation, these private citizens issued summonses against him which were dismissed by the prosecutors. Therefore, the appellant thought that these tickets were considered null and void.

In reply, the appointing authority submits its background report which shows that in addition to the appellant failing to make disclosures as described above, the appellant was disciplined by the Passaic Police Department for an incident in 2008 while he was in pursuit of a motorcyclist who was driving hazardously and then crashed, 12 New Jersey Police Accident Reports where the appellant was involved in motor vehicle accidents between 1995 and 2012 and an additional Police Accident Report for a 2017 accident that involved the appellant.

In response, the appellant presents that after receiving two moving violations as a new driver, he has not received any motor vehicle summonses from a law enforcement officer. He acknowledges that he was arrested for an incident in 2000. However, he indicates that he was hired by the Pompton Lakes Police Department as a per diem Public Safety Telecommunicator and then later became a full-time Public Safety Telecommunicator for the Wayne Police Department. He explains that he did not remember the date of his application with the Passaic County Sheriff's Department. Thereafter, the Passaic County Sheriff's Department removed his name from a certification due to an unsatisfactory criminal history based on the arrest in 2000. However, the appellant states that he was successful in his appeal to the Civil Service Commission (Commission) which granted his appeal, but recorded his name as bypassed. Thereafter, the Passaic Police Department hired him as a Police Officer and he explains that he resigned in good standing in 2013 to care for his children. He complains that the Internal Affairs Unit for the Sheriff's Department said that it would contact him if it had any questions or issues with his application, but it never did.

The appellant presents various laws that only require employers to keep employment records for a year or two. Therefore, he purged his documentation concerning applications that he submitted for prior employment. Consequently, he could not remember all prior employment applications which is why he only included information regarding employment applications for law enforcement positions within

the last four years. Further, while he may not have specifically mentioned that he completed an employment application to be a Passaic Police Officer, he did disclose that he was hired as a Passaic Police Officer and obviously he needed to fill out an application to be hired. The appellant claims that he was unaware that he was the subject of investigations by the Wayne Police Department for assault in 1998 and a motor vehicle dispute in 2004. He reiterates that he has been hired by several law enforcement agencies without disclosing these investigations, including the Wayne Police Department, and he would have disclosed them if he was aware of them. Now that these issues have been presented, he vaguely remembers the circumstances that led to these investigations and he emphasizes that these incidents were not pursued by law enforcement. With respect to the additional documents that the appointing authority has presented on appeal, the appellant states he fully disclosed the incident where he was disciplined by the Passaic Police Department and he is unaware of the relevance of his motor vehicle accident history as it relates to the alleged falsification of his application. He reiterates that he provided his entire accident history as best he remembered at the time of his application. He highlights that the initial removal request regarding his County Correction Officer application only concerned the omission of the 2006 motor vehicle summonses and thereafter the investigator for his Sheriff's Officer application presented other alleged falsifications. However, since both investigations were under the Sheriff's Department's Internal Affairs Department, he questions if there was an ulterior motive to dig for more information to be used against him. The appellant argues that the Commission should consider the totality of his background and that he used his best recollection to complete the application when making its decision.

CONCLUSION

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 appellant claims that he did not disclose the 2006 motor vehicle summonses because they were not on his Driver's Abstract and he did not remember them due to circumstances that led their issuance and they were quickly dismissed. Further, he claims that he was unaware that he was the subject of 1998 and 2004 police investigations although he now acknowledges that he vaguely remembers the circumstances that led to these investigations. Additionally, the appellant indicates that he purged his documentation from prior employment applications, just as employers do, and therefore he could not remember everywhere

he applied. The appellant also believes that his vehicle motor vehicle accident history is not relevant to the issue of falsification.

Initially, it is noted that a candidate is responsible for the accuracy of his or her application and any failure to include information is at the candidate's peril. *See In the Matter of Harry Hunter* (MSB, decided December 1, 2004) and *In the Matter of Jeffrey Braasch* (MSB, decided December 1, 2004). Further, it is irrelevant as to whether the candidate remembered all incidents, did not think these incidents were valid based on the circumstances or did not have documentation to remind the candidate of these incidents. Moreover, the Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. Therefore, even if there was no intent to deceive and regardless of the reasons why the appellant did not disclose the 2006 motor vehicle summonses, the 1998 and 2004 police investigations and all of his prior law enforcement applications, in light of the appellant's numerous car accidents including one as recently as 2017, his receiving discipline as a Passaic Police Officer which involved an incident while he was driving, and other negative interactions with law enforcement and the court system, his failure to disclose these incidents was material. It is recognized that Sheriff's Officers and County Correction Officers are law enforcement employees who must enforce and promote adherence within to the law. They hold highly visible and sensitive positions within the community and that the standard for an applicant includes good character and an image of the utmost confidence and trust. It must be recognized that a law enforcement officer is a special kind of employee. His primary duty is to enforce and uphold the law. He is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. He represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public. *See Moorestown v. Armstrong*, 89 N.J. Super. 560, 566 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990). Specifically, these incidents call in to question as to whether the appellant has the good character and judgment to be a law enforcement officer. At minimum, the appointing authority needed this information to have a complete understanding of his background to properly evaluate his candidacy. *See In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). While the Commission appreciates the appellant's personal and professional background, in reviewing the totality of the appellant's background, the Commission finds that it was appropriate to remove his name from the lists based on the falsification of his application.

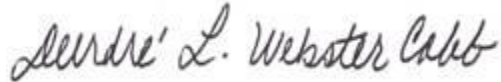
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Sheriff's Officer and County Correction Officer (S9999U) eligible lists.

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 5th DAY OF SEPTEMBER, 2018



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