



STATE OF NEW JERSEY

In the Matter of Brendan Quigley,
Correctional Police Officer (S9988U),
Department of Corrections

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

CSC Docket No. 2019-2595

List Removal Appeal

ISSUED: NOVEMBER 21, 2019 (JET)

Brendan Quigley appeals the removal of his name from the Correctional Police Officer (S9988U), Department of Corrections eligible list on the basis of an unsatisfactory driving record.

The appellant took the open competitive examination for Correctional Police Officer (S9988U), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified on (date). In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory driving record. Specifically, the appointing authority asserted that the appellants motor vehicle history reflects that in 1997 and in 2002, the appellant was found guilty of Driving Under the Influence (DUI) motor vehicle infractions. It is noted that the S9988U eligible list expired on March 29, 2019.

On appeal to the Civil Service Commission (Commission), the appellant asserts that the last driving infraction occurred 17 years ago, and he has matured since that time. He explains that he is now married and has a five year old son. Moreover, the appellant states that he appeared for pre-employment processing and he was not informed that he was removed from the list until February 2019.

In response, the appointing authority maintains that the appellant's 1997 and 2002 DUI motor vehicle infractions are sufficient to remove his name from the subject list. In this regard, the appointing authority argues that its pre-

employment processing criteria with respect to applicant driving records required that the appellant's name be removed from the 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 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); *In the Matter of Yolanda Colson, Correction Officer Recruit (S9999A), Department of Corrections*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003).

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 individual from an eligible 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 this matter, the appellant argues, among other things, that he does not possess an unsatisfactory motor vehicle history as the last motor vehicle infraction occurred in 2002 and he has matured since that time. The appointing authority argued that its pre-employment processing criteria with respect to applicant driving records required it to remove appellant from the list. The Commission is not bound by criteria utilized by the appointing authority and must decide each list removal on the basis of the record presented. *See In the Matter of Victor Rodriguez* (MSB, decided July 27, 2005). *See also, In the Matter of Debra Dygon* (MSB, decided May 23, 2000). In this matter, the record reflects that the last incident occurred over 17 years ago, and he has not been involved with any further motor vehicle infractions since that time. As such, sufficient time has elapsed to show that the appellant has been rehabilitated. Accordingly, under the circumstances, the appointing authority

has not demonstrated that the appellant's driving record constitutes sufficient cause to remove his name from the subject eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and that the list for Correctional Police Officer (S9988U), Department of Corrections be revived, and the appellant's name certified at the time of the next certification 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 19TH DAY OF NOVEMBER, 2019



Deidre L. Webster Cobb
Chairperson
Civil Service Commission

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