



STATE OF NEW JERSEY

In the Matter of Trevor Powell,  
County Correction Officer<sup>1</sup> (S9999U),  
Essex County

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2020-471

List Removal Appeal

ISSUED: DECEMBER 6, 2019 (SLK)

Trevor Powell appeals his removal from the eligible list for County Correction Officer (S9999U), Essex County, on the basis of falsification of his employment application and an unsatisfactory background report.<sup>2</sup>

By way of background, the appointing authority’s background report indicates that the appellant falsified his application. Specifically, the appellant did not indicate on his employment application that he had contact with two inmates via phone calls which were traced to the appellant’s phone number. Additionally, the appellant did not disclose a 2014 arrest for possession of marijuana in response to a question on his application asking if he was ever arrested, although the appointing authority acknowledged that this arrest was disclosed when the appellant was asked about expungements on his application. Further, in December 2016, the appellant was charged with transporting a firearm without a license or registration to do so. Finally, when questioned about parking tickets or summonses, the appellant acknowledged that he had been issued tickets for such offenses, but stated that he “cannot recall” these incidents. The New Jersey Automated Traffic System revealed that the appellant had 14 motor vehicle violations between 2010 to 2017.

<sup>1</sup> Effective December 1, 2019, the title of County Correction Officer was renamed County Correctional Police Officer.

<sup>2</sup> Although the background report does not explicitly indicate that the appellant was removed for an unsatisfactory background report, the report does state that the “candidate has displayed a pattern of behavior not appropriate of law enforcement personnel.”

On appeal, the appellant states that he did disclose the inmates that he had contact with on his application and he did not have contact with the two inmates that the appointing authority alleges. He states that one of the disclosed inmates informed him that he was using other inmates' phone calls to communicate with him, which is why he believes that his phone number is associated with inmates that he does not know. Additionally, the appellant indicates that he disclosed the 2014 marijuana charge in the "USE THIS PAGE FOR ANY ADDITIONAL INFORMATION" section on the employment application as he did not have enough room in the section where he was asked about arrests. He also indicates that he provided the appointing authority with documentation to show that this charge was dismissed and expunged. Concerning the 2016 weapons charge, he presents that he did disclose this incident. Further, he explained to the appointing authority the full incident in detail. He described that he had an altercation with his girlfriend's son's father. The appellant stated that in response to the father poking his girlfriend in the face with two fingers, he grabbed the father and pinned him up against a car. Additionally, he gave his then friend a bag which contained a registered firearm. Thereafter, the appellant grabbed the father by the neck, pushed him onto the hood of the car and heard something fall, which turned out to be the appellant's gun. Then, as his former friend was yelling at the father, the father called the police. Moreover, the girlfriend told the appellant that the father had hit her in the past. When the police arrived, they found his former friend with the appellant's registered firearm. While the appellant acknowledges that he should not have been carrying a registered firearm, he explains that he never intended to expose the weapon, nor did he intend to get physical with the father. However, he states that he did what anyone would do to protect his girlfriend, so he does not believe that his actions represent a pattern of behavior not appropriate for law enforcement. The appellant indicates that he provided the appointing authority with documentation that this charge was downgraded to simple assault. With regard to his driving record, he acknowledged on his application that he had received parking tickets or summonses, but he indicated that he "cannot recall." However, the appellant presents that he provided the appointing authority his Certified – Complete Driver's History Abstract that included his entire driving history through May 29, 2019. Therefore, he argues that he did not falsify his driving record or anything else on 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.

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 (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).

*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.

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.

*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 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.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 appointing authority had a valid reason to remove the appellant's name from the list. A review of the record indicates that the appellant had continuous negative interactions with the law between 2010 to 2017. Most concerning is the December 2016 incident where the appellant acknowledges he pushed his girlfriend's son's father onto a car and then grabbed him by the neck. Additionally, the appellant's former friend was in possession of his firearm, which led to a weapons-related charge. While the appellant claims that he did what anyone would do to protect his girlfriend, this excuse is unpersuasive as the appellant escalated a heated situation by getting involved in a physical altercation. It is noted that the December 2016 incident took place after the August 31, 2016 closing date. Additionally, the appellant was charged with possession of marijuana in 2014. These incidents demonstrate that the appellant lacks the good judgment to be a law enforcement officer. In this regard, it is recognized that a County Correction Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correction Officers, like 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. Moreover, the appellant was ticketed for 14 motor vehicle violations between 2010 and 2017 and his driver's license was suspended in 2012, 2013 and 2015. It is also noted that the last motor vehicle violation took place after the subject examination closing date. The appellant's ability to drive a vehicle in a safe manner is not the main issue in determining whether or not he should remain eligible to be a County Correction Officer. These violations are evidence of disregard for the motor vehicle laws and the exercise of poor judgment. The appellant has offered no substantive explanation for these infractions. As the Commission finds that the appellant's background is unsatisfactory to be a Corrections Officer, it need not decide whether the appellant falsified his application.

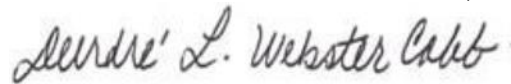
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the County Correction Officer (S9999U), Essex County eligible list.

### **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 4<sup>th</sup> DAY OF DECEMBER, 2019



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