



STATE OF NEW JERSEY

In the Matter of Amir Mohamed,
Police Officer (S9999U), Jersey City

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

CSC Docket No. 2019-1071

List Removal Appeal

ISSUED: FEBRUARY 8, 2019 (SLK)

Amir Mohamed appeals his removal from the eligible list for Police Officer (S9999U), Jersey City on the basis of an unsatisfactory background report.

The appellant took the open competitive examination for Police Officer (S9999U), which had an August 31, 2016 closing date, 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 background.

On appeal, the appellant presents that his criminal history is clear as he states he never committed a crime. He believes that he was removed from the list in retaliation for an internal affairs complaint that he made against one of the appointing authority's officers for excessive force. The appellant claims that he was discriminated against as there were others on the list with arrest records who were appointed. He claims that the appointing authority violated the Conscientious Employee Protection Act (CEPA) by retaliating against him for being a whistleblower.

In response, the appointing authority submits its background report that describes an incident that took place on March 27, 2017, where the victim called the police complaining that the appellant was blocking her driveway and waving a stick at her. The victim further stated that the appellant made an inappropriate sexual statement toward her and made a derogatory racial and gender-based comment toward her. The report indicates that the appellant was not cooperative with police

when they responded and, while he denied making the racial comment, he acknowledged making the derogatory gender-based comment.

The report further indicates that the appellant and the victim settled their dispute in mediation. Additionally, the appellant filed an internal affairs report against the responding officers for use of excessive force. The appellant submitted video of the incident to the internal affairs unit. However, the internal affairs unit determined, after reviewing the video along with the rest of its investigation, that the appellant's complaint could not be sustained. The appointing authority provides the appellant's "explanation of harassment summons" that he submitted to the Jersey City Police Department's Background Unit. In addition to the appellant explaining his account of the incident, he stated, "I later decided to drop the Internal Affairs Complaint because I noticed we were all wrong and had a part to play in escalating the situation. I've noticed I could have handled the situation better as well as the officers."

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 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.

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 appointing authority had valid reasons for removing the appellant's name from the list. Specifically, the appellant was accused of blocking a victim's driveway and waving a stick at her. Additionally, the police report indicates that the victim accused the appellant of making inappropriate sexual, gender-based and racial comments toward the victim and, at the time of the incident, the appellant only denied to the responding officers making the racial comment. Additionally, the responding officers described the appellant as being uncooperative. The incident took place on March 27, 2017, which is after the August 31, 2016 closing date for the subject examination. On appeal, the appellant does not specifically respond to the appointing authority's background report which states that he made inappropriate comments and was uncooperative. Instead, he claims that the appointing authority retaliated against him due to the internal affairs report that he filed, and such action was in violation of the CEPA statute. Initially, CEPA does not apply to this situation as only a current employee can bring such a claim. Regardless, the appellant acknowledged in his statement to the appointing authority as part of its background

investigation that he was wrong, that he played a role in escalating the situation and he could have handled the situation better. As such, there is no evidence that the appointing authority's actions were taken in retaliation for the appellant filing an internal affairs complaint against the responding officers and the evidence indicates that he was removed from the list because he lacked the good judgment and temperament to be a Police Officer. In this regard, it is recognized that a Police Officer is a law enforcement employee who must enforce and promote adherence within to the law. Police Officers 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 Police Office is a special kind of employee. His primary duty is to enforce and uphold the law. He carries a service revolver on his person and 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).

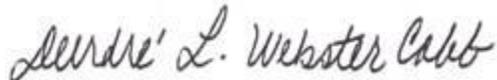
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999U), Jersey City eligible list.

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 6th DAY OF FEBRUARY, 2019



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