



**STATE OF NEW JERSEY**

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

In the Matter of Elias Saleh, Jr.,  
Sheriff's Officer (S9999U), Hudson  
County

List Removal Appeal

CSC Docket No. 2019-2034

**ISSUED: JANUARY 16, 2020 (ABR)**

Elias Saleh, Jr., represented by Stuart J. Alterman, Esq., appeals the removal of his name from the Sheriff's Officer (S9999U), Hudson County eligible list on the basis of an unsatisfactory background report.

The appellant, a non-veteran, applied for and passed the examination for Sheriff's Officer (S9999U), Hudson County which had a closing date of August 31, 2016. The subsequent eligible list promulgated on March 29, 2017 and expires on March 30, 2020. The appellant's name was certified to the appointing authority on June 11, 2018.

In disposing of the certification, the appointing authority requested the removal of the appellant's name due to an unsatisfactory background report. Specifically, the appointing authority cited the appellant's driving record, his filing of a false police report in 2011 and his significant debts as evidence that he lacked the requisite judgment for the position. With regard to his driving record, the appointing authority maintained that the appellant's 54 tickets for violations between 2004 and 2018, including 19 moving violations listed in his Certified Driver's Abstract between 2004 and 2015, demonstrated a total disregard for the law and other drivers. The infractions listed in his Certified Driver's Abstract included: speeding in February 2008, January 2010 (two citations) and November 2013; failure to wear a seatbelt in July 2007, November 2008, December 2012 and December 2015; careless driving in April 2006 and December 2012; unsafe operation of a motor vehicle in June 2004, February 2007 and May 2012; obstructing the passage of other vehicles in September 2006 and July 2011; failure

to observe a traffic control device in July 2007 and June 2010; and improper display/fictitious plates in September 2008 and October 2008. As to the false police report, the appointing authority noted that in response to Question 60 on his pre-employment application, which asked him to list any instance where he had “ever been arrested or detained by any law enforcement or otherwise had contact with the law as an adult,” he stated that he was initially charged with filing a fictitious police report and hindering apprehension or prosecution based upon an April 16, 2011 incident and that the charges were later amended to loitering. He stated that he was found guilty of the loitering charge. Furthermore, the appointing authority stated that the appellant failed to disclose several pieces of information about his debts, accident history and employment. With respect to debts, the appointing authority indicated that the appellant had an outstanding loan of \$206,270, which he failed to disclose, plus \$68,414.87 in credit card debt. It further stated that the appellant only listed 10 out of his 21 credit cards in his pre-employment application. The appointing authority also asserted that the appellant failed to state in his pre-employment application that he was involved in motor vehicle accidents on February 11, 2006, September 7, 2007, and July 3, 2008. Finally, the appointing authority stated that the appellant failed to disclose that he was employed by Wat’s Room, Inc. in 2002.

On appeal to the Civil Service Commission (Commission), the appellant emphasizes he is presently a law enforcement officer, serving as a County Correctional Police Officer with Hudson County,<sup>1</sup> and he argues that the appointing authority’s decision to remove his name from the subject eligible list was arbitrary and capricious, and that it lacked sufficient reasons to remove him from the eligible list pursuant to *N.J.A.C.* 4A:4-4.7(a)(1) and *N.J.A.C.* 4A:4-6.1(a)(9). He denies that his record shows a total disregard for the law, given that he is a law enforcement officer and he does not currently have any points on his driver’s license. He states that 35 of the 54 tickets at issue involved parking violations for a vehicle he owns jointly with his wife and he asserts that the only parking ticket linked to that vehicle within the last three years, a June 24, 2018 ticket for parking in a prohibited area in the City of Bayonne (Bayonne), was actually issued to his wife. As to the 19 infractions listed in his driver’s abstract, he emphasizes that only eight of them added points to his license and he states that he has not received points for any other motor vehicle violation since 2013. He submits that his earliest violations occurred because he was “immature” with his driving habits as a high school student. He attributes many of the tickets he received between 2007 and 2016 to his work in a delivery position with a pizzeria. As to the circumstances of the April 2011 incident that led to his conviction for loitering, the appellant explains that his apartment in Bayonne was burglarized and that when police responded, he told them that there were more items missing than there actually were. He states that

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<sup>1</sup> Agency records indicate that the appellant was appointed to the title of County Correction Officer, effective December 26, 2017. Pursuant to P.L. 2019, c.219, the title of County Correction Officer was retitled as County Correctional Police Officer, effective December 1, 2019.

several days after the burglary, he was called into the police station for questioning, at which time he confessed that he misrepresented what items were stolen from his apartment. The appellant concedes that he made a “regretful idiotic choice of inflating the situation of items stolen.” He also states that he has applied for an expungement of his loitering conviction. With regard to his debts, the appellant asserts, in relevant part, that the loan the appointing authority references is a mortgage that he and his wife share on their home. He states that he disclosed the existence of this mortgage on page 48 of his pre-employment application and he indicates that he furnished the appointing authority with the copy of the mortgage statement it has in its records. As to his credit cards, the appellant states that he listed the 10 credit cards on which he was an account holder. He maintains that the 11 credit cards that he did not list were accounts for which he was merely an authorized user. The appellant submits that his employment with Wat’s Room, Inc. was listed in his pre-employment application as Roth Harris and he indicates that this was a telemarketing company where he held a part-time job for less than a month while in high school. He states that he believes the company changed its name. Finally, the appellant argues that discrepancies in the record and the different interpretations of it by the parties warrant a hearing at the Office of Administrative Law.

In response, the appointing authority submits a copy of its background report with supporting documentation, including the appellant’s Certified Driver’s Abstract.

### CONCLUSION

Initially, the appellant requests a hearing in this matter. List removal appeals are treated as reviews of the written record. *See N.J.S.A. 11A:2-6b.* Hearings are granted in those limited instances where the Commission determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. *See N.J.A.C. 4A:2-1.1(d).* No material issue of disputed fact has been presented which would require a hearing. *See Belleville v. Department of Civil Service, 155 N.J. Super. 517 (App. Div. 1978).*

*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:4-4.7(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.

While the Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel, a review of the record in this matter indicates that the appellant's removal from the subject eligible list on the basis of an unsatisfactory background report is unwarranted. Although the appellant was initially charged with filing a fictitious police report and hindering apprehension or prosecution after an April 16, 2011 incident, he was only subsequently convicted of loitering after the charges against him were amended. As such, it cannot be said that he was convicted of a serious offense. As to the appellant's driving record, the Commission notes that even if an eligible has a driving record with multiple license suspensions and moving violations, a consideration of circumstances surrounding those events may support the restoration of that eligible's name to an eligible list. *See e.g., In the Matter of Efrain Beltre* (MSB, decided September 3, 2003) (Appellant restored to the eligible list despite the fact that his driving record which reflected numerous license suspensions and moving violations over a 14-year period, noting that the appellant was employed as a truck driver for 10 years, and none of the infractions were especially egregious); *In the Matter of Charles Mitchell* (MSB, decided July 27, 2005) (Despite two license suspensions and two moving violations in the year appellant was considered for a position as a Police Officer, appellant provided a detailed explanation for the infractions and the immediate steps he took to rectify the infractions upon receipt of notice). Here, although at first glance the infractions on the appellant's driving record evidence an unacceptable pattern of disregard for motor vehicle laws, it cannot be ignored that the appellant has provided a reasonable explanation for many of these violations and that his only moving violation after 2013 was a citation for failure to wear a seatbelt in December 2015. Additionally, the Commission is mindful of the appellant's employment as a County Correctional Police Officer with Hudson County since December 2017.

Furthermore, the appellant's debts do not provide a basis to remove the appellant's name from the subject eligible list, as a candidate's negative credit history, in and of itself, is not a sufficient basis upon which to remove that candidate's name from an eligible list. *See In the Matter of Alana Farrow* (MSB decided October 1, 2003); *In the Matter of Danielle Bonassisa* (MSB, decided August 12, 2003); *In the Matter of Christopher Starkey* (MSB, decided July 17, 2002).

Moreover, the record does not support the removal of the appellant's name from the subject eligible list on the basis of a falsified application. The appointing authority asserts that the appellant failed to provide the required information concerning his accident history, employment history and credit cards. However, the Commission observes that the Certified Driver's Abstract, mortgage statement and credit report the appellant furnished with his pre-employment application contains the relevant items with respect to his accident record, mortgage and credit cards. Finally, the appointing authority has not offered any evidence to counter the appellant's assertion that Wat's Room, Inc. was the employer referenced as Roth Harris in his application and the Commission notes that the wages from Wat's Room, Inc. were minimal, totaling \$457.84 and that they were earned approximately 14 years prior to the closing date.

Accordingly, based on the totality of the record in this matter, the appellant has met his burden of proof and the appointing authority has not shown sufficient justification for removing his name from the subject eligible list. Nonetheless, the appellant's background provides a sufficient basis to bypass him.

### ORDER

Therefore, it is ordered that the appellant's name be restored to the eligible list for Sheriff's Officer (S9999U), Hudson County but that his name be reflected as bypassed on the subject certification.

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 15<sup>TH</sup> DAY OF JANUARY, 2020

*Deirdre' L. Webster Cobb*

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Chairperson  
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