



STATE OF NEW JERSEY

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

In the Matter of J.P., Correctional
Police Officer (S9999U), Department
of Corrections

List Removal Appeal

CSC Docket No. 2020-699

ISSUED: JANUARY 17, 2020 (HS)

J.P. appeals the removal of his name from the eligible list for Correctional Police Officer¹ (S9999U), Department of Corrections on the basis of an unsatisfactory criminal record.

The appellant, a non-veteran, took and passed the open-competitive examination for Correctional Police Officer (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated on March 29, 2017 and expires on March 30, 2020.² The appointing authority requested the removal of the appellant’s name due to an unsatisfactory criminal record. Specifically, the appointing authority asserted that as a result of an August 17, 2008 incident, when the appellant was 15 years old, he was adjudicated delinquent on a charge of criminal trespass in violation of 18 Pa.C.S. § 3503(a)(1)(i).

On appeal to the Civil Service Commission (Commission), the appellant maintains that he is not the same immature and irresponsible juvenile who committed criminal trespass in that he has rehabilitated and felt remorse over the offense.³ He states that he completed all court-required obligations and committed himself to change his behavior and the people with whom he associated. The

¹ Pursuant to *N.J.S.A.* 11A:2-11.1, effective May 1, 2018, the title of Correction Officer Recruit has been retitled to Correctional Police Officer.

² The eligible list was extended one year to March 30, 2020.

³ In his preemployment application, the appellant indicated that he “regrettably made a bad decision” but has since “learned [his] lesson.”

appellant notes that he has no other infractions in his record. The appellant argues that other factors should also be weighed in considering his candidacy.⁴

In response, the appointing authority requests that its decision to remove the appellant's name from the eligible list be sustained as it believes he is not a suitable candidate. In support, it submits a copy of the appellant's preemployment application, among other documents.

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 that includes a conviction for a crime that 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 Commission or designee may determine. Additionally, pursuant to *N.J.S.A.* 11A:4-10, an appointing authority may only question an eligible for a law enforcement, firefighter or correction officer title as to any arrest. 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)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. *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

⁴ According to the appellant's preemployment application, he graduated from high school in 2012, earned an Associate's degree in Criminal Justice in 2016, and has been employed in the security field since 2014.

has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his 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 is unwarranted. The 2008 incident underlying the appellant's adjudication of delinquency occurred more than eight years before the examination closing date when he was a juvenile of 15 years of age and represents his only negative interaction with law enforcement. Further, the appellant has proffered evidence of rehabilitation as he graduated from high school in 2012, earned an Associate's degree in Criminal Justice in 2016 and has been employed in the security field since 2014. Moreover, the appellant regrets the 2008 incident and indicated that he "learned [his] lesson." 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.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for Correctional Police Officer (S9999U), Department of Corrections for prospective employment opportunities.

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 15TH DAY OF JANUARY, 2020



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