



**STATE OF NEW JERSEY**

In the Matter of Vincent Van Tassel,  
Correctional Police Officer (S9988A),  
Department of Corrections

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

CSC Docket No. 2020-1675

List Removal Appeal

**ISSUED:** May 1, 2020 (SLK)

Vincent Van Tassel appeals his removal from the eligible list for Correctional Police Officer (S9988A), Department of Corrections on the basis of an unsatisfactory criminal record.

The appellant took the open competitive examination for Correctional Police Officer (S9988A), which had a January 31, 2019 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 had an unsatisfactory criminal record. Specifically, the appointing authority indicated that the appellant was charged as a juvenile in March 1999 with Harassment – Bias Harassment, a crime of the fourth degree, which originated from a February 1999 incident. It indicated that the charges were disposed of through juvenile case management where the appellant completed several requirements.

On appeal, the appellant states that the appointing authority is incorrect as the subject charge was not adjudicated and the charges were not disposed through a diversionary program. He submits a court document that indicates that this matter was “Not adjudicated/Case was Dismissed.” The appellant explains that he was falsely accused, he was the victim and the charges were dropped. He states that the person that brought the false charges against him was retaliating against him for previously filing a harassment complaint against the accuser in the subject complaint. The appellant submits a letter from the County Prosecutor that indicates that the appellant was a victim.

In reply, the appointing authority presents its criteria for removal which indicates that a candidate may be removed from an eligible list for being convicted of a fourth degree offense, including juvenile offenses.

### 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.

It is well established that municipal police departments may maintain records pertaining to juvenile arrests, provided that they are available only to other law enforcement and related agencies, because such records are necessary to the proper and effective functioning of a police department. *Dugan v. Police Department, City of Camden*, 112 *N.J. Super.* 482 (App. Div. 1970), *cert. denied*, 58 *N.J.* 436 (1971). Thus, the appellant's juvenile arrest records were properly disclosed to the appointing authority when requested for purposes of making a hiring decision. However, *N.J.S.A.* 2A:4A-48 provides that a conviction for juvenile delinquency does not give rise to any disability or legal disadvantage that a conviction of a "crime" engenders. Accordingly, the disability arising under *N.J.A.C.* 4A:4-4.7(a)4 as a result of having a criminal conviction has no applicability in the instant appeal. However, it is noted that although it is clear that the appellant was never convicted of a crime, he has been arrested. While an arrest is not an admission of guilt, it may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. *See In the Matter of Tracey Shimonis*, Docket No. A-3963-01T3 (App. Div. October 9, 2003).

*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.

Initially, although the appointing authority argues that the appellant violated its criteria for removal, the Civil Service Commission (Commission) notes that it was 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 Debra Dygon* (MSB, decided May 23, 2000).

In the instant matter, the appointing authority did not have a valid reason for removing the appellant's name from the list. The record indicates that the appellant was charged as a juvenile for a February 1999 incident with a fourth degree harassment charge. The appointing authority states that the charges were disposed through juvenile case management. The appellant presents documentation to show that the matter was never adjudicated and the charges were dismissed. He explains that the complainant filed a false charge against him in retaliation for a prior complaint that the appellant made against the complainant. The Commission finds that regardless of how this incident is characterized, it is clear that the matter was dismissed. Additionally, although it does not appear that any negative inference should be made against the appellant due to this incident, even if one were to make such an inference, this was a relatively minor incident that took place while the appellant was a juvenile nearly 20 years prior to the subject examination closing date. Therefore, regardless of how this incident was adjudicated, given the circumstances, it is too remote in time to be a basis for removal in this matter. Further, the appointing authority has not presented any current incidents that would justify the appellant's removal.

Accordingly, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient cause for removing his name from the Correctional Police Officer (S9988A), Department of Corrections eligible list. Therefore, the appellant's name should be added to the (S9988A) eligible list for prospective employment opportunities only.

### **ORDER**

Therefore, it is ordered that this appeal be granted and Vincent Van Tassel's name shall be added to the (S9988A) eligible list 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 29<sup>TH</sup> DAY OF APRIL , 2020

*Deirdre' L. Webster Cobb*

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