



STATE OF NEW JERSEY

In the Matter of D.S.,
Correctional Police Officer (S9988A),
Department of Corrections

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

CSC Docket No. 2020-2288

List Removal Appeal

ISSUED: JULY 31, 2020 (JET)

D.S. appeals the removal of her name from the Correctional Police Officer (S9988A), Department of Corrections eligible list on the basis of an unsatisfactory background report.

The appellant took the open competitive examinations for Correctional Police Officer (S9988A), Department of Corrections, achieved a passing score, and was ranked on the subsequent eligible list which promulgated on June 27, 2019. Subsequently, the appellant's name was certified by the appointing authority. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory background report. Specifically, the appointing authority alleged that pictures of the appellant and her friends were found on various social medial accounts which displayed affiliation with a street gang known as the United Blood Nation.

On appeal to the Civil Service Commission (Commission), the appellant asserts, among other things, that the images on her social media account referred to by the appointing authority date back several years to when she was in high school, and she now regrets what the images depict. The appellant adds that she is now 27 years old and is no longer posting such images on her social media accounts. As such, she requests that her name be restored to the subject list.

Despite being provided with the opportunity, the appointing authority did not provide a response or any additional information regarding the appeal.

CONCLUSION

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d) provide 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. Additionally, *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 Civil Service Commission (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.

In this matter, the appointing authority requests the appellant's removal as a result of pictures that appeared on her social media account which allegedly depict her in gang-related affiliation. In *In the Matter of D.S., Correctional Police Officer (S9988T), Department of Corrections* (CSC, decided November 19, 2019), the appellant appealed her removal from the Correctional Police Officer (S9988T) list due to the same pictures referenced in this matter. However, while the Commission determined in the prior matter that the appellant's background was sufficient for removal from the list, it also noted that the evidence dated back several years, and absent more contemporaneous information of gang affiliation, the appellant's background would be insufficient for removal from future law enforcement lists. Moreover, the Commission is 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 Victor Rodriguez* (MSB, decided July 27, 2005). *See also, In the Matter of Debra Dygon* (MSB, decided May 23, 2000). Based on the circumstances presented and the amount of time that has elapsed since the pictures were posted on the appellant's social media account, and in compliance with the prior decision, the appellant has met her burden of proof.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the 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 29TH DAY OF JULY, 2020

Deirdre' L. Webster Cobb

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