



**STATE OF NEW JERSEY**

In the Matter of Donte Williams,  
Fire Fighter (M1816W), East Orange

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

CSC Docket No. 2020-2679

List Removal Appeal

**ISSUED: SEPTEMBER 18, 2020 (SLK)**

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Donte Williams appeals the decision to remove his name from the Fire Fighter (M1816W), East Orange eligible list on the basis of an unsatisfactory background report.

The appellant took the open competitive examination for Fire Fighter (M1816W), which had an August 31, 2018 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 background report. Specifically, its background report indicated that the appellant was arrested on October 16, 2008 in Texas and found guilty of Theft. Additionally, the appellant was issued three complaints by the Newark Police Department on September 21, 2012 for Disorderly Conduct, Obstructing Public Passage and Failure to Obey Officer. Thereafter, he was stopped by the East Orange Police Department on October 13, 2012 for suspicious narcotics activity and released. Subsequently, on February 2, 2019, the appellant was stopped by the Newark Police Department for suspicious narcotics activity and released. Moreover, a review of the appellant's driver's abstract indicates many violations between March 2011 and August 2019<sup>1</sup> and his driver's license was suspended in 2011 and between January 2013 and January 2015.<sup>2</sup>

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<sup>1</sup> There were two motor vehicle related violations in 2019.

<sup>2</sup> As the appointing authority did not respond to the appeal, there is no evidence in the record that the appellant ever received a copy of the background report.

On appeal, regarding the September 12, 2012 complaints issued by the Newark Police Department, the appellant explains that these complaints were issued due to his identity being stolen and these charges were dismissed. He indicates that he had no knowledge of these complaints until he was informed of their existence by the appointing authority during the application process. The appellant states that he has never been impacted by these complaints nor did he have to go before a Judge to have these complaints resolved. He submits documentation from Newark which demonstrates that these charges were dismissed in October 2012.

Although given the opportunity, the appointing authority has not responded to this appeal.

### 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 Civil Service Commission (Commission) to remove an eligible's name from an employment list for other sufficient reasons.

*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, it is noted that the Commission accepts the appellant's explanation that the 2012 complaints issued against him were a case of stolen identity as he submits documentation to demonstrate that these charges were dismissed, and the appointing authority has not rebutted his claim.

In this matter, the Commission finds that a review of the appointing authority's background report that was submitted in disposing the certification concerning as the appellant was convicted of a crime in 2008, was stopped by the East Orange Police Department in 2012 for suspicious narcotics activity, had numerous motor vehicle violations throughout the years including two recent ones, and was stopped by the Newark Police Department in 2019 for suspicious narcotics activity. However, the Commission notes that a driving record does not provide evidence of inability to perform the duties of a Fire Fighter in the way a poor driving record may evidence a disrespect for the law adversely affecting a Police Officer's ability to perform his or her duties. *See In the Matter of John Rispoli*, Docket No. A-6849-97T3 (App. Div. December 2, 1999). Further, while the appellant's stopping for suspicious narcotics on two separate occasions including a recent one is concerning, the appointing authority's background report indicates that the appellant was released on both occasions, and without any further context from the appointing authority, these incidents are not grounds to remove the appellant from the list. Therefore, as the appellant's last criminal conviction was in 2008, and the appointing authority has

not provided any context to indicate that the appellant is currently unfit to be a Fire Fighter, under these circumstances, the appellant's name should be restored to the subject list for prospective employment opportunities only. Finally, while the incidents in question do not provide a sufficient basis to remove the appellant from the list, they could provide the basis to bypass his name on a future certification.

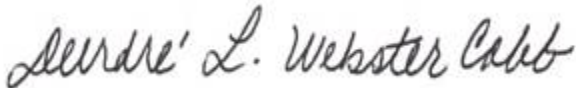
Accordingly, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient cause for removing his name from the Fire Fighter (M1816W), East Orange, eligible list.

### ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the Fire Fighter (M1816W), East Orange 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 DAY 16<sup>th</sup> OF SEPTEMBER, 2020




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