



STATE OF NEW JERSEY

In the Matter of Denise Porter,	:	FINAL ADMINISTRATIVE ACTION
Correctional Police Officer (S9988A),	:	OF THE
Department of Corrections	:	CIVIL SERVICE COMMISSION
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CSC Docket No. 2020-2753	:	
	:	
	:	List Removal Appeal
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ISSUED: OCTOBER 2, 2020 (SLK)

Denise Porter appeals the decision to remove her name from the Correctional Police Officer (S9988A), Department of Corrections eligible list on the basis of an unsatisfactory driving 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 her removal, the appointing authority indicated that the appellant had an unsatisfactory driving report. Specifically, the appointing authority indicated that the appellant failed to appear in court two or more times within seven years of the promulgated civil service list.

On appeal, the appellant states that she completed all the phases of the correctional academy process including fingerprinting, urinalysis, background investigation, written psychological examinations, and completion of required documentation. Additionally, she presents that she completed the personal interview, employment verification, and medical and psychological examinations performed by licensed professionals. The appellant indicates that she was ready to attend the academy when she received an e-mail from the appointing authority stating that her name was not on the list to attend the academy because of her unpaid tickets in January 2020. She represents that she submitted proof to the appointing authority that she paid the tickets; however, the appointing authority advised her that she would be unable to attend the academy at this time. The appellant states

that she was confused because she showed proof that she paid the four parking tickets in full, she had signed her W2's and I9's, and her name was on the list to attend the correctional academy. Additionally, she indicates that a Correctional Police Officer advised her to send in her proof that her tickets were paid, and after sending her proof, the appointing authority still informed her that she could not attend the academy. The appellant presents she tried to contact the Director of Human Resources to explain her situation, but no one could forward her calls to her. Further, she states that she drove to the appointing authority's central office, but she was unable to enter without an appointment. The appellant reiterates that she paid her tickets, completed and successfully passed her examinations and is interested in attending the academy to receive basic training.

In response, the appointing authority presents that the New Jersey Automated Traffic System report indicates that the appellant had four failures to appear in court violations including one in December 2019 for a no parking anytime violation, and three in February 2020 for bus stop, alternative side parking, and prohibited parking violations.¹ It indicates that these violations were noted by a Custody Officer when during a second background check for the appellant just prior to her entering the academy. The appointing authority acknowledges that there was some confusion concerning the appellant's status. It was initially believed that since she was advised to submit proof of payment of the tickets, it may have been possible for her to attend the academy. Therefore, she was scheduled for the pre-academy orientation. Thereafter, when the appellant was advised that she could not attend the academy, she called the appointing authority multiple times and did attempt to enter the appointing authority's headquarters to speak with the Human Resources Director. It emphasizes that due to failures to appear in court and her failure to advise Custody Officers of the tickets as required, she was removed from the list.

In reply, the appellant reiterates all the steps she had to go through during the application process as well as the personal challenges in her life that she had to overcome to get to that point in the process. Finally, she states that she received her final offer of employment on January 21, 2020 and was ready to attend the academy. The appellant presents that she signed her I9's and other paperwork required to attend the academy. Further, she purchased her correctional uniform, which cost \$900, despite the struggle of trying to pay for rent, a car note and insurance.

The appellant explains that the night before she was to attend the academy, she received an e-mail from the appointing authority stating that she was not on the list for the academy due to unpaid parking tickets. In response, she assured the appointing authority that she would provide proof that the tickets were paid, and she provided said proof on January 22, 2020. However, the appointing authority advised

¹ Based on a review of the record, the appellant initially failed to appear in court in December 2019 and paid a fine on December 18, 2019. Thereafter, she failed to appear in court in January 2020, for her subsequent tickets and then paid the fines.

her that she would have to wait to attend the next academy in July 2020. The appellant explains that she was devastated because of the time, money and effort, including attending school and working during the process, to fulfill her dream of becoming an officer. She reached out to the appointing authority to speak about the situation, but she was unable to speak with anyone. The appellant even drove to the correctional facility in Trenton, but she was unable to speak with anyone. Thereafter, in May, she emailed the appointing authority wanting to know what she needed to do to attend the academy in July. The appointing authority replied that she was removed from the list. The appellant explains that she was confused, frustrated and devastated because she did not receive any notifications explaining that she was removed. The appellant followed-up with the appointing authority and asked where they sent her the removal letter and was advised that it was sent to her Kendall Park address. She indicates that this is an extremely old address, and she also explains that she did not receive notices for court appearance because they were being sent to the old address on file. The appellant contends that the appointing authority advised her to appeal explaining the situation and by providing her proof that she paid the parking tickets.

CONCLUSION

N.J.A.C. 4A:2-1.1(b) provides that unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed.

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. 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.

It is noted that it is the Commission and not the appointing authority that sets the standard for removal from an eligible list. *See In the Matter of Joseph Hutsebaut* (CSC, decided April 19, 2017) and the Commission is in no way bound by any criteria it may utilize. *See In the Matter of Debra Dygon* (MSB, decided May 23, 2000).

Initially, it is noted that the appellant's appeal is untimely. On her September 1, 2019 application, she indicated that she lived in Kendall Park. The record indicates that she received parking tickets on September 11, 2019, October 24, 2019, October 27, 2019 and November 7, 2019, which indicated that her address was in New Brunswick. In a February 4, 2020 letter that was sent to the Kendall Park address listed on her application, the appointing authority advised the appellant that her name was removed from the list. Thereafter, in a June 1, 2020 letter, which was received by this agency on June 19, 2020, the appellant appealed, which was well after 20 days from when she should have known that she was removed from the list based on the appointing authority's February 4, 2020 letter. The return address on her appeal indicates that she currently lives in Trenton. The appellant indicated that she only learned of her removal after she received an e-mail from the appointing authority after she contacted it. However, the appellant has provided no evidence that she informed the appointing authority that she no longer lived in Kendall Park, and it was her obligation to keep her address current with the appointing authority during the pre-employment process.

Similarly, concerning the merits, the appellant has failed to properly complete the pre-employment process. As stated above, shortly after the appellant submitted her employment application, she received four parking tickets. Thereafter, the appellant failed to appear in court in December 2019, and she paid this fine on December 18, 2019, and she had three failures to appear in court in January 2020 before paying these fines. The Commission finds that the appellant's failures to appear in court are particularly troublesome as they occurred so late in the application process² and these failures to appear in court are entirely the appellant's fault as they occurred because the appellant acknowledges that she failed to update her address with relevant agencies. The appellant's ability to drive a vehicle in a safe manner is not the main issue in determining whether or not she should remain eligible to be a Correctional Police Officer. These infractions as well as the failures to update the appropriate agencies concerning her current address in a timely fashion demonstrate a lack of responsibility on her part. In this regard, it is recognized that a Correctional Police Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correctional Police Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image

² The Commission notes that where an appointing authority administers medical and psychological examinations, it has already been considered to have conditionally offered employment under the Americans With Disabilities Act. However, the disqualifying issues in this matter occurred after the administration of these examinations, and thus, overcome that conditional offer.

of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990). The public expects Correctional Police Officers to present a personal background that exhibits respect for the law and rules.

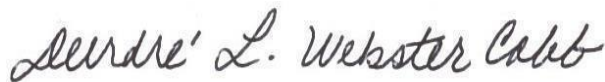
Accordingly, the appellant has failed to meet her burden of proof in this matter and the appointing authority has shown sufficient cause for removing her name from the Correctional Police Officer (S9988A), Department of Corrections, eligible list. The Commission notes, however, and absent any further adverse incidents, the appellant's background as presented in this matter will be insufficient to remove her name from future similar lists.

ORDER

Therefore, it is ordered that this appeal be denied.

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 30TH DAY OF SEPTEMBER, 2020



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