



**STATE OF NEW JERSEY**

In the Matter of Alberto Figueroa,  
County Correctional Police Officer  
(S9999A), Essex County

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

CSC Docket No. 2022-795

List Removal Appeal

**ISSUED: DECEMBER 6, 2021 (SLK)**

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Alberto Figueroa appeals the decision to remove his name from the County Correctional Police Officer (S9999A), Essex County eligible list on the basis of falsification of application.

The appellant took the open competitive examination for County Correctional Police Officer (S9999A), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant falsified his application. Specifically, the State Automated Traffic System indicated that the appellant had nine motor vehicle violations between June 27, 2018 and January 23, 2020 (four on June 27, 2018, one on December 17, 2018, one on July 16, 2019, one on October 22, 2019, and two on January 23, 2020). However, on the application, there were two questions asking if the appellant had parking or traffic tickets/summonses and he only indicated three.

On appeal, the appellant questions how his name can be removed from the list for falsification of application if he could not remember the exact dates and violations from two to three years ago. He presents that he listed the three tickets on his application that he remembered. The appellant notes that he only had a few days to complete the application, so he questions how he could look up the information regarding past tickets and summonses. He emphasizes that the appointing authority never reached out to him asking why he only listed three motor vehicle violations on his application and he indicates that an investigator was never assigned to him. Further, he was never advised during the application process that there were any concerns regarding his application. The appellant states that he is confused why the appointing authority wishes to remove his name as the State Police did not find any

issues with his application for a position with it. Additionally, he questions why the appointing authority would want to remove his name from the list when law enforcement agencies across the country are having challenges recruiting. Moreover, the appellant asserts that it is the State's goal to increase racial diversity in law enforcement. Therefore, he wonders why his name is not being certified to more jurisdictions and why it is so difficult for him to obtain a position in law enforcement.

Although given the opportunity, the appointing authority did not respond.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Civil Service Commission (Commission) to remove an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

The Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant.

*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. 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.

Initially, it is noted that appellants are responsible for the accuracy of their applications. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004). In this matter, the appellant had nine motor vehicle related tickets either shortly before the August 31, 2019, examination closing date or after the closing date.

Therefore, even if there was no intent to deceive, in light of his driving record, his failure to disclose all motor vehicle related tickets was material. At minimum, the appointing authority needed this information to have a complete understanding of his background to properly evaluate his candidacy. *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Therefore, it was appropriate for the appointing authority to remove his name from the list based on falsification pursuant to *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6.

Moreover, the appellant's name could have been removed from the list for an unsatisfactory driving record. In this regard, the appellant's ability to drive a vehicle in a safe manner is not the main issue in determining whether he should remain eligible to be a County Correctional Police Officer. Instead, these violations evidence disregard for the motor vehicle laws and the exercise of poor judgment. The appellant has offered no substantive explanation for these infractions. Such qualities are unacceptable for an individual seeking a position as a County Correctional Police Officer. It is recognized that a County Correctional Police Officer is a law enforcement employee who must enforce and promote adherence within to the law. County Correctional Police Officers hold highly visible and sensitive positions within the community and that the standard for an applicant includes good character and an image of the utmost confidence and trust. It must be recognized that a County Correctional Police Officer is a special kind of employee and is constantly called upon to exercise tact, restraint and good judgment. He must present an image of personal integrity and dependability in order to have the respect of the public. *See Moorestown v. Armstrong*, 89 *N.J. Super.* 560, 566 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). *See also In re Phillips*, 117 *N.J.* 567 (1990).

Regarding the appellant questioning why his name has not been certified to more jurisdictions, the appellant's name could only be certified to jurisdictions that he indicated he was interested in working in on his application.<sup>1</sup> Further, most local appointing authorities have residency requirements, so his name would not be certified to any location where the appellant did not meet those residency requirements. Moreover, once the appellant's name was removed from the list due to falsification of his application, his name was no longer available to be certified to other jurisdictions. *See N.J.A.C.* 4A:4-4.7(a). Finally, even if another appointing authority did not have an issue with the appellant's background, the appointing authority is entitled to make its own independent judgment as to whether the appellant is a suitable candidate to be a County Correctional Police Officer. Moreover, on appeal, the Commission has determined that his removal from the list was appropriate for the reasons provided.

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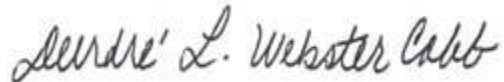
<sup>1</sup> The appellant's application indicated that he was interested in working in four counties.

**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 1<sup>ST</sup> DAY OF DECEMBER 2021



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