



STATE OF NEW JERSEY

In the Matter of Ana Trejo, Police
Officer (S9999A), Union City

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

CSC Docket No. 2021-1581

List Removal Appeal

**ISSUED: DECEMBER 20, 2021
(SLK)**

Ana Trejo, represented by Amy P. Russoniello, Esq., appeals the decision to remove her name from the Police Officer (S9999A), Union City eligible list on the basis of an unsatisfactory employment record.

The appellant took the open competitive examination for Police Officer (S9999A), Union City, which had an August 31, 2019 closing date, achieved a passing score, and was ranked on the subsequent eligible list. Her name was certified (OL200759) and she was ranked as the 1633rd candidate. Subsequently, the appointing authority requested her removal from the list based on an unsatisfactory employment record.

On appeal, the appellant presents that she has been a dispatcher for the Union City Police Department for over 11 years. She initially requests to know what is unsatisfactory about her employment record that is adversely related to the subject title so that she can respond.

In response, the appointing authority indicates that the appellant has been a Public Safety Telecommunicator with the Police Department since November 2009. It presents that during this time, she has been the subject of six internal affairs investigations with “sustained” dispositions. The appointing authority states that the appellant has been charged with numerous administrative and department rules violations which resulted in a 2013 written reprimand for chronic or excessive absenteeism for calling out sick 23 days in 2012, a 2013 three-day suspension for chronic or excessive absenteeism for calling out sick 16 days, a 2017 performance notice for incompetency, inefficiency or failure to perform duties for failing to check

information on a vehicle tow log, a 2017 oral reprimand for chronic or excessive absenteeism for calling out sick 11 days in the first six months of 2017, and a 2018 written reprimand for communicating or imparting confidential police information either in writing, verbally or electronically to unauthorized persons for accessing her police supervisor's mailbox and reading an official police document addressed to the supervisor.

Additionally, between May 22, 2018 and October 19, 2018, the appellant sent a supervisor approximately 370 text messages including messages that stated she desired to "fuck up and trash his car" and to seek "justice;" she mentioned that she was having trouble communicating with the supervisor regarding work issues due to animosity between herself and the supervisor; the appellant threatened to expose the supervisor's extramarital affair to his wife; and she referred to a female officer, who was pertinent to the investigation, as a "bitch." She was charged with several administrative rules violations and served a 15 working day suspension, which was reduced to a six working day suspension after a settlement was reached. Therefore, based on this ongoing incident, where she agreed to accept major discipline, the appointing authority removed her name from the list due to an unsatisfactory employment record.

In reply, the appellant presents that she had a clean disciplinary history from 2009 through 2012. She indicates that in 2012 to 2013, she began experiencing a personal medical health issue, which led to several same day surgeries, a lengthy healing process and her inability to physically work. The appellant explains that she provided the Department documentation regarding her 2012 and 2013 medical issues. Therefore, she argues that minor disciplinary action that was unfairly taken against her for excessive absenteeism is now even more unjust that it is being used to block her from advancing her career. Additionally, the Department issued an August 2017 oral reprimand to her alleged excessive absenteeism for that first half of 2017. The appellant asserts that in accordance with the Department's Internal Affairs' regulations, the oral reprimand was to be removed from her disciplinary file after six months from the issue date. Therefore, she believes that this discipline should not be considered in this matter. She states that she did not even exceed her allotted sick time in 2017. The appellant presents that her February 16, 2017, performance notice and her January 16, 2019, written reprimand were one-time only occurrences over her long-time employment with the Department. Regarding her one major discipline that was resolved in a March 1, 2019 settlement, it was her understanding that the matter would not be presented in any forum except for the assessment of the employee record in any subsequent disciplinary proceedings. Therefore, the appellant believes that this matter should not be used to justify her removal. She asserts that others with similar or more series disciplinary history or criminal violations were hired by the Department.

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 eligible list for having a prior employment history which relates adversely to the title.

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.

In this matter, the record indicates that the appellant had continuous employment discipline between 2012 to 2018, including a major discipline where she acknowledged in a settlement that she violated various administrative rules for behavior that ended less than one year prior to the August 31, 2019 closing date. It is noted that major discipline, particularly within such a short time prior to the subject examination closing date, in and of itself, is grounds for removal from an eligible list. *See In the Matter of Lisa Brown* (CSC, decided October 4, 2017); *In the Matter of Paul Kleinschmidt* (CSC, decided October 3, 2018). Moreover, it is recognized that a municipal Police Officer is a law enforcement employee who must enforce and promote adherence within to the law. Municipal 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 municipal Police Office is a special kind of employee. Her primary duty is to enforce and uphold the law. She carries a service revolver on his person and is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. She represents law and order to the citizenry and 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). As such, the appellant's disciplinary history is clearly sufficient cause to remove her name from the eligible list.

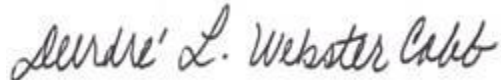
Concerning her comments that some of her minor disciplines were not warranted, the appellant had the opportunity to challenge those disciplines at those times and she cannot relitigate those issues now. Further, the appellant claims that there were either policies in place or there was an agreement or understanding that certain disciplines would be removed from her personnel file or otherwise not used against her in proceedings such as the present matter, but she has not presented any documentation or other evidence to support her claim. Regardless, based on the high standards for a Police Officer, it would not be in the public's best interest to have prior discipline automatically removed from consideration when evaluating one's candidacy for a position as a Police Officer.

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 15TH DAY OF DECEMBER, 2021



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