



STATE OF NEW JERSEY

In the Matter of N.B.,
Police Officer (S9999A), Oakland

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

CSC Docket No. 2021-312

List Removal Appeal

ISSUED: MARCH 26, 2021 (JET)

N.B., represented by Michael Prigoff, Esq., appeals the removal of his name from the Police Officer (S9999A), Oakland, eligible list on the basis of falsification of the employment application.

The appellant took the open competitive examination for Police Officer (S9999A), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified on May 22, 2020 (OL200491). In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of falsification of his employment application. Specifically, the appointing authority asserted that the appellant failed to disclose that he pleaded guilty to an April 20, 2015 juvenile arrest, and failed to disclose his entire high school disciplinary history. Specifically, the appointing authority indicated that the appellant failed to disclose that he had been suspended from high school on two occasions in 2015, and seven additional school incidents including detentions and counseling.¹ The appointing authority indicated that, when presented with such information, the appellant stated that he did not remember pleading guilty to the juvenile arrest or any involvement in the

¹ The appointing authority noted that the appellant failed to disclose that he was disciplined for harassment, intimidation and bullying toward female students, and for jeopardizing the safety of others or order of the school as a result of pushing a student to the ground. The appointing authority indicated that the other incidents included defiance, disruptive behavior, lateness to class, insubordination, and disrespectful behavior.

additional school incidents.² Additionally, the appellant's record reflects that on April 20, 2015, he was arrested and charged as a juvenile with Harassment-Communication in a Manner to Cause Alarm in violation of *N.J.S.A. 2C-33-4A* (dismissed).

On appeal to the Civil Service Commission (Commission), the appellant maintains that he did not falsify the employment application and he completed it to the best of his knowledge.

Despite being provided with the opportunity, the appointing authority did not provide any additional information or arguments in response to the appellant's appeal.

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 Commission to remove an individual from an eligible 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. *N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)9*, allows for the removal 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 an appointment.

In the instant matter, the appointing authority states that the appellant did not list on the employment application that he pleaded guilty to a juvenile arrest, and failed to disclose his entire high school disciplinary history. The appellant argues that he did not falsify the employment application. It is clear that the appellant did not properly complete the employment application. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Police Officer, to ensure that his employment application is a complete and accurate depiction of her history. In this regard, 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 falsification of his employment application

² The appellant's high school disciplinary record reflects that he was issued a five day suspension on May 18, 2015 for harassment, intimidation or bullying; a one day suspension May 12, 2015 for offenses to be decided by administrator; a four day suspension on May 8, 2015 for jeopardizing the safety of others or order of the school; a five day suspension on November 17, 2014 for harassment, intimidation or bullying; a student conference on October 23, 2014 for being disrespectful to another student; a conference on October 15, 2014 for insubordination and cutting class; a three-day detention and a one-day suspension on June 11, 2014 for a fight; a student conference on January 16, 2014 for defiance; a detention on December 12, 2013 for lateness to class; and a student conference on December 5, 2013 for defiance.

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. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

In this case, the appellant's omissions are sufficient cause to remove his name from the eligible list. It is clear that he failed to disclose full information in his background in response to the questions in the employment application. In response to question # 14 on the employment application, have you ever committed an act as a juvenile which if committed by an adult would be a crime or offense, the appellant answered "no" and indicated "On June 19, 2015 I was summoned to appear to Family Court . . . on the allegation of harassment . . . I was not arrested, cited or incarcerated . . . the final result was that it was a misunderstanding – a complaint was filed only." However, his juvenile court record clearly indicates that he pled guilty to the charge of harassment, communication in matter to cause alarm, for which he received a three month deferred disposition, which was ultimately dismissed on September 19, 2015. In response to the questions listed under section IV, question #9 and #10, "Have you ever been disciplined from any secondary level school or educational facility," and "have you ever been suspended, expelled or placed on academic probation from any secondary level school or educational facility," the appellant marked "yes" and indicated "Suspended freshman year for a fight the last day of school [and] suspended sophomore year for allegedly harassing a girl/suspension overturned after School Board investigation." In response to the questions listed under section VII, question #1 on the employment application, "List any school/training/license problems including absenteeism, tardiness, failing grades, discipline and suspensions," the appellant indicated, "Indian Hills High School: June 1, 2014 – suspended for a fight; May 2, 2015 – suspended for allegedly harassing a classmate – suspension overturned by Board of Education." Additionally, the appellant disclosed in a supplemental personal history questionnaire form that he was suspended in his sophomore year for incidents involving shoving a student, aggressive behavior, harassing a student, slapping a lunch tray out of a student's hands, and that he did not remember involvement in any other incidents.

The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his employment application. The appellant's failure to disclose such information is indicative of his questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer. In this regard, the Commission notes that a Police Officers hold highly visible and sensitive positions within the community and the

standard for an applicant includes good character and an image 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 Police Officers to present a personal background that exhibits respect for the law and rules. Therefore, there is sufficient basis to remove the appellant's name from the eligible list. Moreover, the Commission notes its concern with the incidents in the appellant's background which could also support his removal from the list pursuant to *N.J.A.C.* 4A:4-6.1(a)9.

Accordingly, there is sufficient basis to remove the appellant's name from the Police Officer (S9999A), Oakland, eligible list.

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 24TH DAY OF MARCH, 2021

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
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