



STATE OF NEW JERSEY

In the Matter of Saladin Stafford,	:	FINAL ADMINISTRATIVE ACTION
County Correctional Police	:	OF THE
Lieutenant (PC2070U), Essex County	:	CIVIL SERVICE COMMISSION
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CSC Docket No. 2021-470	:	
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	:	List Removal Appeal
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ISSUED: MARCH 26, 2021 (SLK)

Saladin Stafford, represented by Catherine M. Elston, Esq., appeals the decision to remove his name from the County Correctional Police Lieutenant (PC2070U), Essex County (County) eligible list on the basis that he lacked the requirements for the position.¹

The appellant took the open competitive examination for County Correctional Police Lieutenant (PC2070U), Essex County, which had a November 21, 2016 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the County indicated that the appellant lacked the required driver’s license for the position.

On appeal, the appellant presents that on May 30, 2016, while off-duty, he was charged with driving under the influence (DUI), which also led to the County issuing administrative charges against him pending the outcome of the DUI in municipal court. As a result, on December 2, 2016, his driver’s license was suspended for 10 years. Thereafter, the appellant took the subject examination. On or about June 1, 2017, the parties reached a settlement agreement which included a period of suspension as well as completion of an outpatient program. As part of the settlement, the parties agreed that the appellant’s DUI would not be considered for promotional

¹ The appellant’s appeal and the County’s response both indicate that appellant’s name was bypassed. However, the record indicates that the appellant was not bypassed on a certification; rather his name was removed from the subject list.

purposes. The appellant indicates that he requested this provision at the time of his disciplinary matter as he did not want the County to use his DUI as a basis for a bypass for the subject promotion. He presents that the County agreed to this provision during settlement negotiations, which were placed on the record and contained in the agreement. On or around August 15, 2017, the appellant was notified that he passed the subject examination. Subsequently, after completing the outpatient program and found fit to return to duty, the appellant returned to work on December 16, 2017, and has had no other alcohol-related incidents. The appellant states that on October 16, 2019, the appellant was interviewed for the subject promotion and was not advised that his suspended driver's license would result in his name being removed from the list. However, on August 13, 2020, during a second promotional interview, he was advised that he would not be promoted because of his driver's license suspension. Further, in October 2020, he received notice from this agency that his name was removed from certification PL200635 because he lacked "the specific license required for the position."

The appellant asserts that he would not have agreed to the settlement without the provision which precluded his DUI from affecting promotional opportunities. Instead, without the provision, he states he would have continued exercising his appeal rights. He claims, by entering the settlement, that he relied, ultimately to his detriment, on the County's agreement not to consider the DUI for promotional purposes. The appellant notes that on the date that the County agreed to the settlement, the job specification for the subject title included the requirement for a valid driver's license. He states that he has complied with the agreement and acted in good faith; however, he contends that the County reneged on the agreement by removing him from the list.

The appellant argues that the County's removal is a breach of contract as it breached its agreement when it used his DUI for a basis for the removal. The appellant presents case law to indicate that a court, when interpreting a contract, should ascertain the intentions of the parties based on the entirety of the circumstances and that the contract must be interpreted with justice and common sense. Here, the parties made clear that the appellant's DUI, which served as the basis of the disciplinary charges filed against him, was not to be considered in any future promotional opportunities. The appellant states that it is obvious that the provision was intended to include all penalties resulting from the DUI, including his driver's license suspension, as otherwise, the provision would be futile. He presents that at the time the settlement was negotiated, that the County knew his driver's license was suspended and that the job specification for the subject title included an active driver's license. Therefore, the appellant argues that his bypass is a blatant violation of the settlement agreement.

The appellant asserts that strict adherence to every duty or requirement in a Civil Service job description is not required. The appellant cites case law to

emphasize that specific job duties are set by the appointing authority and may differ from the job duties in a Civil Service job specification. He argues that the County agreed to a “bait and switch” when it used the DUI as a basis for his removal.

The appellant also argues that the County is equitably estopped from removing him from the subject list as it failed to turn “square corners” with him and breached the covenant of good faith and fair dealing. The appellant cites cases that indicate that equitable consideration “are relevant in assessing governmental conduct” where townships were estopped from denying benefits, due to reliance on the townships’ actions.

The appellant also cites a case under the Square Corners Doctrine that indicates that the Pension Board had the legal authority to apply equitable estoppel and waive the statutory age requirements for hiring a firefighter who was too old for the position, but was hired nonetheless. He argues that the County has the discretion to assign specific job duties to a title and did so here when it decided to forego an active driver’s license. Further, the appellant relied upon the County’s decision to forego an active driver’s license when he entered into the settlement agreement. However, the appellant states that since the County reversed its decision after he signed the agreement, this action constitutes bad faith and unfair and unjust conduct.

In response, the appointing authority, represented by Jill Caffrey, Assistant County Counsel, presents that the Warden found that the appellant could not be promoted because he does not meet the requirements for Lieutenant as indicated under the Civil Service job specification since his driver’ license is suspended for 10 years. It presents that the job specification indicates that “[a]ppointees must possess a driver’s license valid in New Jersey.”

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)1, allows the Civil Service Commission (Commission) to remove an eligible’s name from an eligible list for lacking the job requirements.

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, a review of the job specification for the subject title indicates that appointees must possess a driver’s license valid in New Jersey. The record indicates that the appellant’s does not have an active driver’s license as it has been suspended for 10 years. Accordingly, the appointing authority correctly requested to

this agency that appellant's name be removed from the subject list as he is ineligible to be appointed to the subject title.

Nonetheless, the appellant argues that the parties reached a settlement that precluded the County from using his DUI, which was the basis for disciplinary action, from being considered for promotional purposes. However, it is the appellant's lack of possessing a valid State driver's license as required under the subject job specification for the subject promotional title, and not his prior discipline, that is the basis for the removal of his name.

Concerning the appellant's arguments that he would not have agreed to the settlement if knew that the DUI and/or his driver's license suspension would be used to remove him, it is the appellant's responsibility to understand the Civil Service requirements before entering into an agreement. Regarding the appellant's assertion that the County breached its contract, has not acted in good faith and its agreement was a "bait and switch," there is nothing in the record that indicates whether the County knew or did not know that the appellant could not be appointed in the subject title at the time its agreed to the provision in question during settlement negotiations. Further, following the appellant's logic, the appellant knew or should have known that his driver's license suspension precluded him from being appointed when he agreed to the provision in question. Moreover, regardless of the intentions of the parties when they entered the agreement, neither the County nor the appellant can "contract away" a requirement in violation of Civil Service rules and law.² Moreover, concerning the appellant's statement that the County has control over the job duties that an incumbent performs in a title and it chose to forego the need for a valid driver's license when it agreed upon the settlement, while an appointing authority has some discretion in assigning duties to an incumbent in a Civil Service title, possession of a valid State driver's license is not a job duty, but rather is a Civil Service requirement for appointment in the subject title which cannot be waived by an appointing authority.

Referring to the appellant's arguments regarding equitable estoppel and the Square Corners Doctrine, to the extent that the parties did not consider or ignored the Civil Service requirement that appointees need to possess a valid driver's license, the appellant is as equally responsible as the County for ignoring or not considering this requirement; therefore, the Commission finds no basis to restore the appellant's name to the list when he does not meet the requirements for a promotion to the subject title. It is noted that parties entering into agreements do so at their own peril

² It is also noted that the County only requested that the appellant's name be removed from the subject list, and it is this agency that determined that his name should be removed from the list when it was informed that the appellant did not possess a valid State driver's license as he did not meet the requirements for the subject promotion. Further, if this agency was aware that the appellant did not possess the required license at the time of the determination of his eligibility, it would have determined him ineligible for the subject examination.

and, it is not the Commission's function to overturn an agreement knowingly entered into that otherwise complies with Civil Service law and rules. Moreover, the Commission will not reinterpret an agreement based on all of the possible consequences of that agreement or based on a circumstance where one of the parties later determines that the settlement was not as advantageous as originally believed.

Accordingly, the appellant has not met his burden of proof in this matter and the County has shown sufficient cause for removing his name from the County Correctional Police Lieutenant (PC2070U), Essex County 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

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