



STATE OF NEW JERSEY

In the Matter of Woodless Dorsainvil,
Police Officer (S9999A), North
Brunswick

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

CSC Docket No. 2021-822

List Removal Appeal

ISSUED: MAY 24, 2021 (SLK)

Woodless Dorsainvil, represented by Robert K. Chewning, Esq., appeals the decision to remove his name from the Police Officer (S9999A), North Brunswick eligible list on the basis that he falsified his application.

The appellant took the open competitive examination for Police Officer (S9999A), North Brunswick, which had an August 31, 2019 closing date, 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.

On appeal, the appellant states that he applied for the subject position to pursue his passion for law enforcement and to protect and serve his community. He indicates that he fully and completely answered all questions on his application. Therefore, the appellant believes that the decision to remove his name from the subject list was arbitrary and in error.

In response, the appointing authority, represented by Katie Mocco, Esq., states that on question 76 of the application, the appellant indicated that he was never held as a suspicious person or investigated by law enforcement. However, it presents that on September 24, 2017, the police responded to an anonymous phone call from the appellant's residence about yelling from the home. The appellant responded to the

investigating officer that he may have been yelling during a football game and the officer determined there was nothing further to report. On August 31, 2018 and August 4, 2019, the police responded to calls for emergency assistance from the appellant's home. After each call, the police investigated the appellant for domestic violence and the investigating officer determined that an arrest was not warranted.

Further, the appointing authority states that on question 84 of the application, in response to being asked if he ever received a motor vehicle summons, the appellant included five motor vehicle violations. However, it presents that a review of the New Jersey Automated Traffic System Ticket Inquiry Display revealed four additional violations (June 19, 2011, October 1, 2014, October 21, 2014, and November 12, 2014), that the appellant omitted. Therefore, the appointing authority argues that the appellant's omission of the police investigations and all motor vehicle violations are grounds for removal.

In reply, the appellant presents that he is a currently a Middlesex County Sheriff's Officer and has been so for five years. Also, he indicates that he was previously a State Correctional Police Officer and served in the Marines where he obtained the rank of Corporal before receiving an honorable discharge in 2010. As such, the appellant asserts that his adult life has been dedicated to serving his country and community and he received several commendations and awards for his military and law enforcement service. He states that becoming a North Brunswick Police Officer was the next step in his law enforcement career as he wanted to serve the town he has lived in for the past six years.

Regarding question 76, although the appellant answered "no," he disclosed all three incidents in the three "continuous pages" and produced reports of the incidents in response to question 73 which asked if he had ever been arrested, indicted or convicted for any violation of criminal law. Specifically, he stated the following:

"Other police contact 08/04/2019 North Brunswick Police Responded to my residence around the hours of 00:43;"

"09/24/2017 North Brunswick Police Department Responded to my residence around the hours of 18:34;" and

"08/31/2018 North Brunswick Police department Responded to my residence around the hours of 01:14."

Therefore, the appellant argues that despite the appointing authority's best attempts to not produce the "continuous pages" and the reports in its initial submission to this agency, he provided all requested information.

Concerning question 84, the appellant states that he provided information for motor vehicles summonses on August 30, 2004, April 10, 2008 (two summonses), February 20, 2010, and August 28, 2012. He provided this information based on the certified driver abstract dated September 9, 2020, which was provided to the appointing authority. The appellant asserts that he reasonably believed that the certified driver abstract included all motor vehicle summonses throughout his 16 years of possessing a driver's license. Therefore, the appellant argues that he did not attempt to deceive or falsify his application.

The appellant notes that the appointing authority did not include key documents and facts by failing to provide the full background application including the continuous pages were the appellant lists the three police encounters, the reports, and his certified driver abstract. The appellant presents that he made several demands during this appeal process for the entire background application, but the appointing authority refused to provide it. He emphasizes that the supporting documents show that he did provide accurate information on his background and he asserts that the full background application is relevant and should have been produced, and reiterates his assertion that if had been provided, it would show that the appointing authority's decision to remove his name from the list for falsifying his application was in error. The appellant argues that the appointing authority's failure to produce the entire application establishes that it failed to consider the entirety of the application and its decision was erroneous. Additionally, the appointing authority failed to mention in its reply to his appeal that he produced the reports and his driver abstract. Consequently, he believes that the appointing authority is attempting to mislead the Civil Service Commission (Commission). Therefore, the appellant requests the appeal be granted, or in the alternative, that the matter be transmitted to the Office of Administrative Law for a hearing as there are disputed material facts.

In further response, the appointing authority states that the appellant's negative response to question 76 was dishonest since he was subject to several investigations. Additionally, he failed to provide the required explanation for each investigation. It asserts that a candidate affirming that they have not been the subject to any investigation, when they have, warrants removal regardless if they provided information elsewhere on their application. Further, the appointing authority presents that he failed to disclose several motor vehicle violations, and his failure to provide complete information is another example of dishonesty, even if the appointing authority could discover the information through other means. Moreover, while the appellant makes vague allegations about the appointing authority's credibility, it contends that this is merely an attempt to draw attention away from his dishonest and incomplete responses. It reiterates its position that it produced all required documentation and states that no negative inference should be drawn from it not producing irrelevant records which the Commission is not relying upon.

However, to ensure finality in this matter, it is submitting the appellant's entire application.

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 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.

N.J.A.C. 4A:4-4.7(b)1 provides that an appointing authority that requests removal of an eligible's name from a list shall submit to an appropriate representative of the Commission, no later than the date for disposition of the certification, all documents and argument upon which it bases its request. Upon request of the eligible or upon the eligible's appeal, the appointing authority shall provide the eligible with copies of all materials sent to the appropriate Commission representative.

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.

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, the appellant requests a hearing in this matter. List removal appeals are treated as reviews of the written record. *See N.J.S.A.* 11A:2-6b. Hearings are granted in those limited instances where the Commission determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. *See N.J.A.C.* 4A:2-1.1(d). No material issue of disputed fact has been presented which would require a hearing. *See Belleville v. Department of Civil Service*, 155 *N.J. Super.* 517 (App. Div. 1978).

Additionally, the appellant complains that the appointing authority did not provide his full employment application including the "continuous pages" and the reports that he submitted regarding the subject domestic incidents.¹ The record

¹ In its response, the appointing authority provided part of the appellant's employment application including his response to question 76 on the application, internal incident reports for the subject domestic incidents, the appellant's incident reports that the police department provided him regarding the subject domestic incidents, New Jersey Automated Traffic System Ticket Inquiry Display for the appellant, and New Jersey Automated Traffic System General Inquiry for the appellant. Additionally, in a separate submission, it provided the audio to the August 2019 domestic incident as well as the information that it submitted to this agency to support its removal which included his responses to

indicates that in response to the appeal, the appointing authority provided all the documentation that was submitted to this agency when it returned the disposition of the subject certification, which complies with *N.J.A.C. 4A:4-4.7(b)1*. There is no requirement under Civil Service rule and law that an appointing authority provide the full background report, including all documentation that a candidate submitted with their application. Further, on appeal, the appellant had the opportunity to submit the “continuous pages” and reports which he purports met his responsibility to fully inform the appointing authority about the domestic incidents.

In this matter, the record indicates that appellant received motor vehicles summonses in August 2004, April 2008 (two), February 2010, June 2011 (not disclosed by the appellant), and August 2012. In September 2012, he was charged with Simple Assault, which was dismissed.² Additionally, the appellant received motor vehicle summonses in July 2014 (not disclosed by the appellant) and September 2014 (two – both not disclosed by the appellant). Further, the police were called to investigate incidents at the appellant’s residence in September 2017, August 2018, and August 2019.

Concerning falsification, on question 76 on the application, the appellant was asked, “Have you ever been held as a suspicious person or investigated by any law enforcement or private security agency for any reason?” If yes, give details below. The appellant responded, “No.” The appellant claims that he met his obligation to fully inform the appointing authority about because on the “continuous pages” that he submitted with his application where he described that incidents as follows:

“Other police contact 08/04/2019 North Brunswick Police Responded to my residence around the hours of 00:43;”

“09/24/2017 North Brunswick Police Department Responded to my residence around the hours of 18:34;” and

“08/31/2018 North Brunswick Police department Responded to my residence around the hours of 01:14.”

Additionally, he submitted incident reports from the police department which describes the 2017 incident as an anonymous person called in the incident and the appellant indicated that he may have yelled during a football game, the 2018 incident was reported by his wife indicating that her husband was breaking things inside the house and then both parties stated that the argument was over cable television and

question 73 and 76, including the “continuous pages” that provided the appellant’s further response to question 73. In the appointing authority’s further response, it provided the appellant’s complete application.

² Neither party mentioned this incident on appeal; however, the appellant indicated this incident in response to question 73 on his application.

there was no physical contact, and the 2019 incident does not say who reported the incident and the narrative description under the notes states that “there are 18 incidents over 1 year old”. Regarding the 2019 incident, the appointing authority submitted his wife’s 911 phone call which stated that the appellant “choked me” and “threatened to kill me.” It is noted that the Officer Report indicated that his wife only claimed that she was pushed after she threw a charger and there were no signs of physical injury. Additionally, the appellant’s wife stated that she only called 911 to scare the appellant.

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. Therefore, even if there was no intent to deceive, considering the seriousness of these allegations, the Commission finds that the appellant’s one sentence sparse responses and the submitted reports were not sufficient. Therefore, although the appellant disclosed the domestic incidents in response to question 73, the appellant failed to provide a more detailed narrative regarding these incidents as required in response to 76. The information that the appellant failed to disclose is considered material and should have been accurately indicated on his employment application. His failure to disclose this information is indicative of the appellant’s lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer.

Further, the record indicates that the appellant received nine motor vehicle summonses and he failed to disclose four. Initially, it is noted that candidates can be removed from the list 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). The appellant claims that he disclosed all the summonses on his certified driver abstract and did not intentionally fail to disclose the four summonses that were not on this document. However, candidates are accountable for the accuracy of their applications. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Further, even if there was no intent to deceive, in light of the appellant’s driving record and other negative interactions with law, the appellant’s failure to disclose these four summonses was material. At minimum, the appointing authority needed this information to have a complete understanding of his background in order to properly evaluate his candidacy. See *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017).

Moreover, the record indicates that the appellant had continuous negative interactions with the law from August 2004 including right up to the August 31, 2019 closing date. Therefore, the record indicates that the appellant currently lacks the good judgment needed to be a Police Officer. In this regard, 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 Officer is a special kind of employee. His primary duty is to enforce and uphold the law. He 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. He 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).

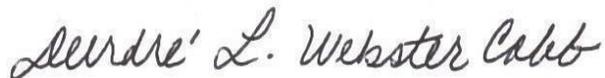
Therefore, in reviewing the totality of the appellant's background, the Commission finds that it was appropriate for the appointing authority to remove his name from the Police Officer (S9999A), North Brunswick eligible list.

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 19TH DAY OF MAY, 2021



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