



STATE OF NEW JERSEY

In the Matter of T. W., Parole Officer	:	FINAL ADMINISTRATIVE ACTION
Recruit (S1000A), State Parole Board	:	OF THE
	:	CIVIL SERVICE COMMISSION
	:	
CSC Docket No. 2021-1320	:	
	:	
	:	List Removal Appeal
	:	
	:	
	:	

ISSUED: JULY 26, 2021 (SLK)

T. W. appeals the decision to remove his name from the Parole Officer Recruit (S1000A), State Parole Board eligible list on the basis of an unsatisfactory employment record.

The appellant took the open competitive examination for Parole Officer Recruit (S1000A), State Parole Board, which had a June 21, 2019 closing date, achieved a passing score, and was ranked on the subsequent eligible list. His name was certified (OS200261) on September 24, 2020 as the 37th listed candidate. In seeking his removal, the appointing authority indicated that the appellant had an unsatisfactory employment record. Specifically, the appointing authority’s background report indicated that in 2015 the appellant was terminated from his part-time valet position with the New Brunswick Parking Authority for a “no call no show.” He stated that he attended a close friend’s graduation without requesting the day off.

Additionally, the background report stated that the appellant indicated that he was arrested in January 2010 for disorderly conduct, arrested in February 2010 for obstructing the administration of law and for rioting– failure to disperse, had Juvenile Conference Committee meetings in March and April 2010 for these arrests, and had a September 2010 Intake Service Conference which tasked him with essays and four months of supervision. Both charges were dismissed in February 2011. Further, the appellant reported that while working at the Middlesex County Sheriff’s Department as a Public Safety Telecommunicator, his probationary period was

extended to ensure that he knew how to complete all title responsibilities. The appellant stated that he successfully passed and kept his title until he left. The appointing authority also noted that during his probationary period, the appellant received a citation for driving while intoxicated as his blood alcohol was found to be .11%. Subsequently, the appellant pled guilty and received a 90-day license suspension, fines, and was required to complete a 12-hour Intoxicated Driving Center course. Therefore, the appointing authority requested that the appellant be removed from the subject eligible list.

On appeal, the appellant presents that he has been a State Judiciary Probation Officer since 2016. He states that for the past four to five years, he supervised drug court, adult, and juvenile supervision caseloads. He indicates that he previously worked for the Middlesex County Sheriff's Department as a Public Safety Telecommunicator from 2015 to 2016, a Foreclosure Clerk in 2015, and an Intern in 2013. The appellant asserts that his performance in these positions was considered exceptional and he states that the last two work performances reviews and references that he provided in his recruitment packet verify his statement.

The appellant acknowledges that he informed the appointing authority during recruitment that he was terminated from his part-time valet job in 2015, pled guilty to Driving Under the Influence (DUI) in 2015, turned down a Correctional Police Officer position in 2018, and his younger brother was on parole in New Jersey in 2019. The appellant explains that in 2015, he was working as a full-time Foreclosure Clerk while working part-time as a valet for the New Brunswick Parking Authority. He presents that in May 2015, he attended his close friend's college graduation in North Carolina without requesting the weekend off from his part-time employer, which led to him being terminated. Additionally, the appellant admits that later that summer, while out at night drinking with a friend, he made an unwise decision to drive under the influence of alcohol after leaving the bar. He indicates that although there was no accident, he was pulled over and charged with DUI after failing the sobriety test, which led to him pleading guilty to the offense in November 2015. Still, the appellant asserts that these incidents did not negatively impact his performance in any position. He states that he has learned from his past mistakes. However, he emphasizes that he has been an excellent employee with both the Middlesex County Sheriff's Department and the State Judiciary.

The appellant also indicates that he took the Civil Service examination for Correctional Police Officer in 2016 and was provided the opportunity to interview for a position in 2018. He believes that he was scheduled for an interview, but he never confirmed nor attended the interview. The appellant states that he was not willing to interview for a position that offered a salary that was lower than his salary at that time. However, he acknowledges that he did not inform the Civil Service Commission (Commission) that he was no longer interested, and he apologizes for this past mistake. He notes that when he was hired as a State Probation Officer in 2016, his

younger brother had already been in the court system and in jail and was on drug court probation when he started with the Middlesex County Probation Supervision Unit in 2018. The appellant states that he reported his family involvement and was advised not to interfere with his brother's case, and he did as directed. He asserts that his brother's involvement on probation and later parole in 2019 did not hinder him from excelling as a Probation Officer. He reiterates that the past mistakes that he acknowledged have not prohibited him from excelling in his positions and he highlights that he has never been terminated from a full-time position. The appellant emphasizes that it has been six years since his DUI, he has competently served as a State Probation Officer and he wishes to advance his career in criminal justice. He requests to be given the opportunity to prove that he is qualified to be a Parole Officer Recruit.

In response, the appointing authority submits and summarizes the initial documentation that it sent to this agency for the reason for the removal. It also notes that the appellant failed to produce his official transcript as required.

In further reply, the appellant presents that as part of his guilty plea for DUI in 2015, he completed a mandatory 12-hour Intoxicated Driver Course. Additionally, he was advised to complete an evaluation for outside counseling because he was considered a high-risk driver since he received a speeding ticket on the New Jersey Turnpike three months prior to the DUI. He notes that had he refused or failed to adhere to the recommendation, his driving privileges would have been suspended; however, he indicates that there was no criminal offense, jail time or in-patient program that he had to endure due to this incident. Additionally, the appellant asserts that other than his firing from his part-time valet position in 2015, his employment record has been described as satisfactory or exceptional. Regarding his probationary period as a Public Safety Telecommunicator, his trainer indicated that it was an uncommonly slow time and less active office and the trainer did not get a chance to show him how to perform all required duties. Therefore, the trainer recommended for his benefit that the probationary period be extended for a few weeks so that he can learn additional job functions that he was not exposed to during the first 90 days. He states that after an additional two weeks of training, he passed his probationary period and performed his job well until he left in October 2016 to become a State Probation Officer. The appellant highlights that he is approaching his fifth year as a Probation Officer and his references will verify that he has performed his job well. He argues that his background that includes a one-time DUI offense and no criminal record, jail time, and a solid employment history indicates that he will excel as a State Parole Officer. He states that there are State officers and employees who have criminal records and unsatisfactory employment histories, and he has neither. The appellant believes that his background should not prevent him from being a Parole Officer.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the Commission to remove an eligible's name from an eligible list for having a prior employment history which relates adversely to the title sought.

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, it is noted that it is well established that municipal police departments may maintain records pertaining to juvenile arrests, provided that they are available only to other law enforcement and related agencies, because such records are necessary to the proper and effective functioning of a police department. *Dugan v. Police Department, City of Camden*, 112 *N.J. Super.* 482 (App. Div. 1970), *cert. denied*, 58 *N.J.* 436 (1971). Thus, the appellant's juvenile arrest records were properly disclosed to the appointing authority when requested for purposes of making a hiring decision. However, *N.J.S.A.* 2A:4A-48 provides that a conviction for juvenile delinquency does not give rise to any disability or legal disadvantage that a conviction of a "crime" engenders. Accordingly, the disability arising under *N.J.A.C.* 4A:4-4.7(a)4 as a result of having a criminal conviction has no applicability in the instant appeal. However, it is noted that although it is clear that the appellant was never convicted of a crime, he has been arrested. While an arrest is not an admission of guilt, it may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. *See In the Matter of Tracey Shimonis*, Docket No. A-3963-01T3 (App. Div. October 9, 2003).

Further, participation in a Pre-Trial Intervention (PTI) program is neither a conviction nor an acquittal. *See N.J.S.A.* 2C:43-13(d). *See also Grill and Walsh v. City of Newark Police Department*, Docket No. A-6224-98T3 (App. Div. January 30, 2001); *In the Matter of Christopher J. Ritoch* (MSB, decided July 27, 1993). *N.J.S.A.* 2C:43-13(d) provides that upon completion of supervisory treatment, and with the consent of the prosecutor, the complaint, indictment or accusation against the participant may be dismissed with prejudice. In *Grill, supra*, the Appellate Division indicated that the PTI Program provides a channel to resolve a criminal charge without the risk of conviction; however, it has not been construed to constitute a favorable termination. Furthermore, while an arrest is not an admission of guilt, it may warrant removal of an eligible's name where the arrest adversely relates to the employment sought. Thus, the appellant's arrest and entry into the PTI program

could still be properly considered in removing his or her name from the subject eligible list. *Compare In the Matter of Harold Cohrs* (MSB, decided May 5, 2004) (Removal of an eligible's name reversed due to length of time that had elapsed since his completion of his PTI).

The record in this matter indicates that that the appellant was arrested in January 2010 for disorderly conduct, arrested in February 2010 for obstruction of the administration of law and for rioting – failure to disperse, had Juvenile Conference Committee meetings in March and April 2010 for these arrests, and had a September 2010 Intake Service Conference which tasked him with essays and four months of supervision. However, both charges were dismissed in February 2011. Further, in 2015, the appellant was terminated from his part-time valet position with the New Brunswick Parking Authority for a “no call no show.” Additionally, during his probationary period while working at the Middlesex County Sheriff's Department as a Public Safety Telecommunicator, he was arrested for DUI and pled guilty in November 2015. In other words, the record indicates that between 2010 and 2015, the appellant had negative interactions with the law and/or his employer that indicates that he lacks the judgment to be a law enforcement officer.

The appellant argues that his service as a Senior Probation Officer militates against his adverse interactions with the law and his prior employment record. However, it cannot be ignored that unlike the Parole Officer title, Probation Officer is not a law enforcement title. Specifically, incumbents in the Parole Officer title series must complete a training program administered by the Police Training Academy to qualify as peace officers for the detection, apprehension, arrest and conviction of offenders. In this regard, it is recognized that a Parole Officer Recruit is a law enforcement employee who must promote adherence to the law. Parole Officer Recruits, like municipal 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 Parole Officer Recruits to present a personal background that exhibits respect for the law and rules. Further, as he pled guilty to DUI in November 2015, which was less than four years prior to the June 21, 2019 closing date for the subject examination, there was insufficient time for him to demonstrate rehabilitation. Moreover, the appellant's statement indicating that he was provided the opportunity to interview for a Correctional Police Officer position in 2018, but he never confirmed nor attended the interview demonstrates that he still lacks the good judgment to be a law enforcement officer. While the appellant had no obligation to interview for a position that he was not interested in, professionalism and common courtesy dictate that he should have informed the appointing authority that he was not going to attend the interview. Accordingly, the appellant's background currently supports his removal from the Parole Officer recruit eligible list.

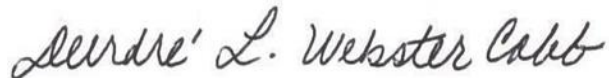
However, it is noted that with the further passage of time and absent any future negative interactions with the law, employers or other authority, the appellant's background may not be sufficient to remove him from future similar lists.

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 21ST DAY OF JULY, 2021



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries

and
Correspondence

Allison Chris Myers
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: T. W.
Dana Ryba
Tamara Rudow Steinberg, Esq.
Division of Agency Services
Records Center