



**STATE OF NEW JERSEY**

In the Matter of Joseph Peppard,  
Police Officer (S9999A),  
Brick Township

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

CSC Docket No. 2021-1154

List Removal Appeal

**ISSUED: SEPTEMBER 24, 2021  
(JET)**

Joseph Peppard appeals the removal of his name from the Police Officer (S9999A), Brick Township eligible list on the basis of an unsatisfactory background report.<sup>1</sup>

The appellant, a disabled veteran, 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 21, 2020 (OL200482). In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory background report. Specifically, the appointing authority asserted that the appellant's background investigation revealed that in 2006, the appellant was involved in a motor vehicle crash and he falsely reported that his vehicle was stolen, and as a result, was charged with Filing a False Police Report in violation of *N.J.S.A. 2C:24-4b*, which was downgraded and he pled guilty to the amended offense of Interference with Township Officials in violation of local ordinance 164-15, and he paid a fine. The appointing authority also asserted that, although the appellant indicated on the employment application that he left employment at iPlay America to focus on school, his background check revealed that he was terminated from iPlay America due to being late to work, which the appellant acknowledged by e-mails dated September 5 and 6, 2012. The appointing authority also asserted

<sup>1</sup> The appellant stated via e-mail that he was represented by an attorney. To date, the appellant has not submitted any information or documentation to confirm that he is represented, and all of the information and arguments have been submitted by him.

that, although the appellant listed on the employment application that he did not possess a GPA and did not earn any credits while attending Monmouth University in 2012 and 2013, the background investigation revealed that he listed on a separate employment application for Freehold Township that he did not take school seriously and he only sought to collect his G.I. Bill, that he attended Brookdale Community College from 2005 to 2011, and attended Monmouth University from 2012 to 2014. The appointing authority also asserted that the appellant failed to disclose that he previously submitted applications for four other law enforcement positions, and he voluntarily withdrew his previous employment applications for law enforcement positions from Middletown, Freehold and Holmdel. In this regard, the appointing authority indicated that the appellant omitted that he submitted applications for law enforcement positions in Holmdel, Middletown, Manchester, Monmouth County, and the U.S. Air Marshalls. Moreover, the appointing authority asserted that the Ocean County Prosecutor's Office provided a letter indicating that it did not recommend the appellant for a law enforcement position as his credibility was at issue based on the Attorney General's Law Enforcement Directive No. 2019-6 pertaining to *Brady v. Maryland* and *Giglio v. United States*.<sup>2</sup>

Additionally, the appointing authority indicated that the appellant's motor vehicle abstract reflects that he was issued summonses in 2005 and 2006 for Failure to Wear a Seat Belt in violation of *N.J.S.A. 39:3-76.2f*; issued a summons in 2006 for Leaving the Scene of an Accident in violation of *N.J.S.A. 39:4-129* (dismissed), and for Failure to Report Accident in violation of *N.J.S.A. 39:4-130* (dismissed); and in 2018, issued a summons for Obstructing the Passage of Vehicles in violation of *N.J.S.A. 39:4-67*. The appellant's driver's abstract also reflects that he was involved in four motor vehicle accidents on January 11, 2006, September 5, 2007, October 5, 2011, and on July 17, 2013. The appointing authority also states that, at some point in 2016 or 2017, the appellant was issued a summons for Speeding in Florida, for which he paid a fine and the infraction was recorded as a "hold of adjudication." The appointing authority indicated that the information the appellant listed on his employment application was inconsistent with the information it found during the background investigation.

On appeal to the Civil Service Commission (Commission), the appellant claims that the removal is based on the appointing authority's lack of candor, untruthfulness, and bias against him, and he argues that such behavior constitutes

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<sup>2</sup> The *Brady-Giglio* policy is based on decisions issued in *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972). The *Brady-Giglio* guidelines were issued as policies pursuant to the Attorney General's Law Enforcement Directive No. 2019-6. In short, these rules were issued to provide a more efficient means for the criminal courts to obtain and analyze exculpatory evidence in cases. In essence, the prosecutor indicated that the appellant's character, if required to testify in court as a Police Officer, would potentially be called into question as he would be required to disclose to the court and defense counsel information pertaining to the charges that were issued against him. It is noted that the policy does not specifically apply to Civil Service law and rules.

defamation. Specifically, the appellant explains that he was only 19 years of age at the time of the 2006 incident where he crashed his vehicle and was arrested as a result of reporting to the Police that his vehicle was stolen. The appellant adds that he panicked and reported the vehicle as stolen as he was covered by his parent's automobile insurance at the time, and he later accepted responsibility for his mistake. The appellant maintains that, other than the traffic infractions that he has been involved with, he has not had any other adverse incidents with law enforcement. With respect to the *Brady-Giglio* policy, the appellant contends that the policy is only used as a potential guideline to determine if it is appropriate to exclude testimony, whether testimony is worthy of impeachment, if such testimony should be disclosed to defense counsel, and if the testimony is considered exculpatory. The appellant adds that the *Brady-Giglio* guidelines do not mandate that information will be disclosed, but rather, each jurisdiction has discretion to disclose certain information based on such guidelines.

The appellant further asserts that, with respect to the letter from the Ocean County Prosecutor's Office, it inaccurately indicates that he was involved in a fourth degree crime. The appellant contends that he was only involved in a Disorderly Person's Offense at the time of the 2006 infraction, which was not explained in the Ocean County Prosecutor's letter to the appointing authority. The appellant adds that he ultimately pled guilty to a violation of a local ordinance, and the two traffic violations against him were dismissed. As such, the appellant states that the original 2006 charge of Filing a False Police Report cannot be used against him pursuant to *Brady-Giglio*. The appellant contends that since he was a young adult at the time of the 2006 incident, and since the charges that would implicate the *Brady-Giglio* guidelines were dismissed, he should not have been removed on that basis. The appellant explains that his violation of a municipal ordinance does not constitute a crime pursuant to *N.J.S.A. 2C:1-4*, and as such, it should not give rise to any disability or legal disadvantage toward him. The appellant adds that, at the time of the 2006 incident, he was not serving as a Special Class II Police Officer, and as such, he questions if the *Brady-Giglio* guidelines apply to that time. The appellant maintains that, even if the charges must be disclosed pursuant to *Brady-Giglio*, then it should also be appropriate to consider as mitigating factors his prior service in the military<sup>3</sup> and as a Special Class II Police Officer.<sup>4</sup> The appellant asserts that the Ocean County Prosecutor's failure to take such information into account is contrary to the *Brady-Giglio* guidelines,<sup>5</sup> and since he has provided

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<sup>3</sup> The appellant also states that the appointing authority did not consider his honorable discharge from the military.

<sup>4</sup> A Special Class II Police Officer is not a Civil Service title. The appellant states that he was not required to testify pursuant to the *Brady-Giglio* guidelines while serving as a Special Class II Police Officer, and as such, his credibility was not compromised at that time.

<sup>5</sup> The appellant states that requiring him to testify may also be contrary to the Rules of Evidence. The appellant maintains that the appointing authority may consider alternative ways to presenting him as a witness rather than excluding him outright from testifying. In support, the appellant provides a copy of the Rules of Evidence, arguing that such rules may prevent his background from

evidence of his rehabilitation, he should not be required to testify with respect to the 2006 infraction. The appellant argues that, although the appointing authority attempts to use his driving record against him with respect to the 2006 infraction, he disclosed that he was pulled over by the police while driving on the Garden State Parkway. The appellant contends that the inaccurate reasons that were provided by the appointing authority with respect to his background is indicative of its malice toward him, and as such, the background investigation was flawed. The appellant adds that, although the appointing authority references information that it obtained from the application he submitted for a position in Holmdel, the appointing authority failed to provide him with supporting documentation it relied on from that jurisdiction for his review.<sup>6</sup>

Additionally, the appellant asserts that the appointing authority's background investigation constitutes a false narrative against him. Specifically, the appellant contends that, despite that the appointing authority indicated that there were no police visits to his home, the police appeared at his home in 2019 and they confirmed that his girlfriend was staying there.<sup>7</sup> The appellant maintains that he provided a complete driving abstract to the appointing authority which he obtained via the internet, and he claims that the appointing authority did not properly review his driving history. The appellant maintains that he correctly listed on the employment application that he was involved in various driving infractions, including January 11, 2006 in Colts Neck, September 15, 2010 in Howell, 2016 and 2017 in Florida, and January 23, 2018 in Freehold.<sup>8</sup> The appellant states that he reported to the background investigator that, although he could not remember the specifics of the seatbelt summons that was issued in Freehold, he did report that a summons that was issued by a State Trooper while he was driving on the Garden State Parkway. As such, the appellant states that the appointing authority is mischaracterizing his motor vehicle history. The appellant adds that the appointing authority inaccurately described his educational transcripts, as a review of the transcripts he provided indicate that he graduated high school with a 3.209 GPA and was ranked 122 out of 248 students. Moreover, the appellant asserts that the appointing authority inappropriately references his entitlement to the G.I. Bill

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being used against him in court if he is, hypothetically, called at some point in the future to testify as Police Officer.

<sup>6</sup> The appellant adds that the appointing authority also relied on the applications he submitted for positions in Freehold and Monmouth County, and while he made a request pursuant to the Open Public Records Act (OPRA) to obtain those applications, he was unable to obtain those applications as the OPRA requests were denied. The appellant asserts that he also requested information pertaining to his certifications in Middletown, and he did not receive any information in response. The appellant states that he was certified for a position in Holmdel on October 9, 2015.

<sup>7</sup> The appellant states that the appointing authority did not record the correct date with respect to the police visit, as it was listed it as occurring on April 7, 2019.

<sup>8</sup> The appellant contends that the background investigator indicated in his report that the appellant "did input" the information.

in order to smear his character.<sup>9</sup> The appellant states that the appointing authority also failed to consider his service as a Special Class II Police Officer at the Lake Como Police Department and the rank he achieved after graduating from the Monmouth County Police Academy.<sup>10</sup>

With respect to his employment at iPlay America, the appellant explains that he informed his manager while employed in that position that he wanted to pursue his education at Monmouth University, and he was not terminated from that position. The appellant adds that in 2012, he applied for a separate position with another agency and he was required to submit a written explanation indicating that he was terminated from employment at iPlay America.<sup>11</sup>

In support, the appellant provides a copy of the information he submitted to the appointing authority at the time he submitted the employment application, including prior applications for law enforcement positions in other jurisdictions, educational transcripts, an application to purchase a handgun, reports pertaining to his use of force incidents while serving as a Special Class II Police Officer, military records, court records, unemployment documentation, bank statements, tax returns, social security card, records pertaining to his security work at Walmart, and selective service registration.<sup>12</sup> He also states that he made several OPRA requests to various agencies, which he either did not receive or were denied.<sup>13</sup>

Despite being provided with the opportunity, the appointing authority did not provide any further arguments or documentation in response to the appellant's appeal. However, it relies on the background information it submitted to this agency in support of the appellant's removal.

## CONCLUSION

*N.J.S.A.* 11A:4-11, in conjunction with *N.J.A.C.* 4A:4-4.7(a)4, provides that an eligible's name may be removed from an employment list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to

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<sup>9</sup> The appellant contends that he explained to the background investigator in Freehold that he experienced academic struggles and he paid back the money from his G.I. Bill entitlements in full.

<sup>10</sup> As noted previously, a Special Class II Police Officer is not a Civil Service title. The appellant provides documentation indicating that he graduated 13<sup>th</sup> out of 61 trainees and was in the top 25% of his class.

<sup>11</sup> The appellant does not provide any substantive information from iPlay America to show that he was not terminated from that position.

<sup>12</sup> It is noted that Freehold specifically indicated that it was in support of the appellant applying for positions in other jurisdictions based on the contingency that he did not apply for any future positions in Freehold. The appellant also provided documentation to the Monmouth County Sheriff that he was not interested in a position in that jurisdiction.

<sup>13</sup> The record reflects that the appellant made an OPRA request to the appointing authority, and it responded that it did not have to provide more information to him than was relied on to remove him from the eligible list in this matter.

the employment sought. In addition, when the eligible is a candidate for a public safety title, an arrest unsupported by a conviction may disqualify the candidate from obtaining the employment sought. *See Tharpe, v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992). In this regard, the Commission must look to the criteria established in *N.J.S.A. 11A:4-11* and *N.J.A.C. 4A:4-4.7(a)4* to determine whether the appellant's criminal history adversely relate to the position of Correction Officer Recruit. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

The presentation to an appointing authority of a pardon or expungement shall prohibit an appointing authority from rejecting an eligible based on such criminal conviction, except for law enforcement, firefighter or correction officer and other titles as determined by the Commission. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate's removal from a Police Officer employment list to consider whether the candidate's arrest adversely related to the employment sought based on the criteria enumerated in *N.J.S.A. 11A:4-11*. *See Tharpe v. City of Newark Police Department, supra*.

Additionally, *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. 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. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles 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); *In the Matter of Yolanda Colson, Correction Officer Recruit (S9999A), Department of Corrections*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003).

*N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)7*, allows for the removal of an individual from an eligible list who has a prior employment

history which relates adversely to the position sought. *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 appointing authority argues that it removed the appellant as consistent with the *Brady-Giglio* guidelines. The Commission finds that, although the *Brady-Giglio* guidelines provide pertinent information to law enforcement agencies from the Attorney General's Office regarding exculpatory evidence, the Commission is not bound by such guidelines. The Commission is not a law enforcement agency and, as such, its authority is not based on policies implemented by the Attorney General's Office. Rather, the Commission's authority to implement Civil Service law and rules is provided by Title 4A of the New Jersey Administrative Code and Title 11A of the New Jersey Statutes. Although the *Brady-Giglio* guidelines are relevant to law enforcement agencies, Civil Service law and rules are not specifically applicable to exculpatory evidence as provided by the *Brady-Giglio* guidelines, nor applicable to testimony provided by Police Officers in criminal and municipal court proceedings. Rather, list removal appeals are decided by the Commission on a case by case basis pursuant to the above noted Civil Service law and rules. See *In the Matter of Victor Vazquez, et. al., City of Hackensack Police Department* (CSC, decided July 21, 2021) (The Commission emphasized that nothing issued by the Prosecutor in that matter called for the appellants' removal from employment). Although the prior case addressed the removal of Police Officers from employment based on such guidelines, the Commission also finds it appropriate to consider list removal appeals on a case by case basis when the *Brady-Giglio* guidelines are invoked. See *In the Matter of Evan Androcy, Police Officer, Regular Reemployment List, Lacey Township* (CSC, decided August 4, 2021).

Initially, the appointing authority initially relied on the *Brady-Giglio* guidelines at the time it removed the appellant based on information indicating that he was charged in 2006 with Filing a False Police Report in violation of *N.J.S.A.* 2C:24-4b, which was downgraded to the amended offense of Interference with Township Officials in violation of local ordinance 164-15, for which he was found guilty and he paid a fine. As will be discussed more fully below, the Commission finds that the information the appointing authority considered with respect to the 2006 charges based on the *Brady-Giglio* guidelines, in addition to the information pertaining to the appellant's unsatisfactory motor vehicle history and unsatisfactory employment history, are sufficient to warrant his removal in this case.

In this matter, with respect to the appellant's arguments that he served as a Special Class II Police Officer and was not required to disclose his background in court while serving in that position, it is noted that Special Class II Police Officers are not Civil Service titles. As such, although the appointing authority could have considered such information at the time it reviewed the appellant's background, the

appellant's position as a Special Class II Officer does not establish that the appointing authority should or could not remove him from the list based on his background. In other words, since the Special Class II Police Officer position is not a Civil Service title, neither the Commission nor the appointing authority are required to take such service into consideration with respect to his unsatisfactory background report. As such, the appellant's arguments in this case with respect to his service as a Special Class II Police Officer do not establish his contentions. While such service is demonstrative of his ability to perform as a Police Officer, it is not determinative in assessing his overall suitability for the current position.

With respect to the 2006 charge against the appellant, although the appellant states that he was young when the incident occurred and has learned from his mistakes, the appellant's explanation that he provided the false report because he was concerned about his parent's reaction to the incident does not overcome his involvement in the incident. Although the incident is remote in time and was downgraded to a violation of a local ordinance, such a history cannot be ignored in this matter. Such behavior is inappropriate for an individual applying for a Police Officer position. Moreover, the appointing authority could review such information as a part of the appellant's background when considering his suitability for employment.

Additionally, the appellant's background reflects an unsatisfactory work history, as he was removed from several law enforcement lists, and it appears that he was terminated from employment at iPlay America. The appellant has not provided any current information from iPlay America in this matter to show that he was not terminated from that position. The record also reflects that the appellant submitted a letter to the Monmouth County Sheriff indicating that he was not interested in serving in a law enforcement position in that jurisdiction, and there is no indication that he was under any undue influence or coerced into submitting such information at that time to any of the prior agencies to which he submitted applications. Moreover, with respect to the appellant's contentions pertaining to the OPRA requests, this agency is not responsible for requiring the appointing authority to provide the information he requested in support of his OPRA request. The appointing authority properly provided information in support of its reasons in removing the appellant. Moreover, the appellant submitted voluminous documentation in support of his appeal which was thoroughly reviewed in this matter, and none of it provides any substantive evidence to show that he was inappropriately removed from the subject list.

Additionally, regarding the appellant's driving record, his ability to drive a vehicle in a safe manner is not the main issue in determining whether or not he should remain eligible to be a Police Officer. Such violations, with one as recent as 2018, evidence disregard for the motor vehicle laws and the exercise of poor judgment. Other than stating that he was concerned about his parent's reaction as



a result of the 2006 incident, the appellant has offered no substantive explanation for these infractions. In this matter, it is clear that the appellant's driving record shows a pattern of disregard for the law and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer. The appellant's motor vehicle history and municipal court history reflect that he was involved in several infractions, including summonses in 2005 and 2010 for Failure to Wear a Seat Belt; Obstructing the Passage of Vehicles in 2018, involvement in four motor vehicle accidents in 2006, 2007, 2011, 2013, and at some point in 2016 or 2017 in Florida, the appellant was issued a summons for Speeding, for which he paid a fine and the infraction was recorded as a "hold of adjudication." The appellant does not provide any substantive evidence on appeal to dispute this information, and the most recent incident occurred in 2018, which is less than two years prior to when his name was certified on the eligible list. The recency of such driving infractions, the relatively large number of infractions and prior involvement in accidents are unacceptable for a candidate applying for a law enforcement position. It is recognized that 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. Accordingly, based on the totality of the issues presented above regarding the appellant's background, the appointing authority has presented sufficient cause to remove the appellant's name from the eligible list for Police Officer (S9999A), Brick Township.

Since the appellant has been removed for the above listed reasons, it is unnecessary to address the appointing authority's contentions pertaining to the discrepancies in the employment application, and whether such discrepancies were cause for removal from the list for falsification. *See N.J.A.C. 4A:4-6.1(a)6*.

### **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 22 DAY OF SEPTEMBER, 2021

*Deirdre' L. Webster Cobb*

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Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

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