



STATE OF NEW JERSEY

In the Matter of Diamond Olivera,
Police Officer (S9999A), Newark

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

CSC Docket No. 2022-566

List Removal Appeal

ISSUED: JANUARY 21, 2022 (SLK)

Diamond Olivera appeals the decision to remove her name from the Police Officer (S9999A), Newark eligible list on the basis of an unsatisfactory background report.

The appellant took the open competitive examination for Police Officer (S9999A), Newark, which had an August 31, 2019 closing date, achieved a passing score, and was ranked on the subsequent eligible list. Her name was certified (OL210053) and she was ranked as the 4530th candidate. In seeking her removal, the appointing authority indicated that the appellant had an unsatisfactory background report.

On appeal, the appellant states that she has a clean record with no criminal history or negative background. She asserts that she has never been associated with a gang as all the people around her are educated, successful, and have good character. The appellant indicates that she has spent her life going to school, playing sports, working, and returning home. She states that she has never showed any disrespect for the law and has a clean driving record that is in good standing. The appellant presents that she is a college student majoring in criminal justice and she has never had any disciplinary actions taken against her while attending college. She indicates that she is employed and coaches children’s sports. The appellant argues that there is not anything in her background that does not demonstrate that she has good moral character. She states that she wants to become a Police Officer to serve her community. The appellant emphasizes that she has family who serve in the Newark Police Department who have guided her.

In response, the appointing authority, represented by France Casseus, Assistant Corporation Counsel, states that the appellant has three tattoos that its Criminal Intelligence Unit and Candidate Investigation Unit have identified as commonly associated with the Almighty Latin King and Queen Nation Street Gang (ALKQN). Specifically, it presents that one is a picture of a woman's face with a lion's head, another has a quote "Crowned When They Found Me" with a five-point crown at the end, and a third has an image of a crown, followed by the letter "K" and a heart. The appointing authority highlights that one of the detectives who certified that the tattoos are associated with the ALKQN gang has training in identifying characteristics associated with various gangs in Newark, including gang colors, signs and tattoos and training for classification of a gang member. It notes that during the investigation, when the appellant was asked about her tattoos, she became visibly nervous and began stuttering her words, and while she denied being associated with ALKQN, the investigators did not find her to be truthful. Further, the appointing authority presents that the courts have held the being affiliated with a gang is a proper reason to be removed from a list and it reiterates that she has three tattoos that are associated with ALKQN. Additionally, it contends that the appellant can also be removed for falsification as she denied have any familiarity or association with ALKQN.

In reply, the appellant provides character references from a childhood friend, a friend for the past three years, a family friend, and her Pastor. She presents definitions from the internet that the crown is a religious symbol and the lion tattoo conveys bravery and courage of the bearer. The appellant highlights that in the appointing authority's background report, it noted that she presented herself in a professional manner at the interview, she explained that she wanted to become a Newark Police Officer to protect people, be a voice in the community, and make a positive change in the justice system, and she does not have any arrest history. Further, the appellant emphasizes that the appointing authority did not find any negative activity regarding her social media accounts, she tested negative for drugs, and her driving record was found to be in good standing. She also submits a "before" picture of the crown tattoo followed by the letter "K" and a heart that was on her back right shoulder, and a "current" picture which shows that the tattoos have been remade to what appears to be a picture of the "Twin Towers" and the New York City skyline.

CONCLUSION

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. 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 Civil Service Commission (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 appointment.

Initially, it is noted that the Commission has upheld the removal of eligibles from law enforcement lists based on tattoos that were found to be affiliated with gangs, even where the appellants did not have any arrests or convictions. *See In the Matter of Marvin L. Campbell, Jr.* (MSB, decided May 7, 2008). *See also In the Matter of D.S.* (CSC, decided November 19, 2019).

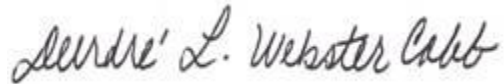
In this matter, the appointing authority indicates that its investigators identified that the appellant has three tattoos that are associated with ALKQN, a known gang in Newark. Further, the investigators found that, even though the appellant denied any involvement with gangs, she became visibly nervous and began stuttering her words when questioned about the tattoos. Therefore, it found that the appellant was not credible, and her tattoos were associated with ALKQN. In response, the appellant presents internet definitions that the "crown" symbol is a reference to religion and the "lion" symbol is a reference to bravery. However, the Commission finds that references to religion and bravery would not be images that are inconsistent with gang images. Therefore, the Commission finds that the appellant has not adequately explained how she had three tattoos that were specific to a known gang in Newark as identified by the investigators, including one who was trained on identifying gang affiliations. 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 Office is a special kind of employee. Her primary duty is to enforce and uphold the law. She carries a service revolver on her person and is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. She 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). Further, the fact that the appellant has currently redone one of these tattoos to remove an image associated with ALKQN, that she has is currently in college, has positive references, and does not have any criminal history, does not overcome that she has not adequately explained how she ended up with these gang-related tattoos in the first place, and she has the burden of proof. Accordingly, the Commission finds that the appellant's removal from the list was proper under the circumstances.

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 JANUARY, 2022



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