



STATE OF NEW JERSEY

In the Matter of I.A.R., Fire Fighter
(M1505T), Bloomfield

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

CSC Docket No. 2022-1839

List Removal Appeal

ISSUED: October 12, 2022 (HS)

I.A.R., represented by Ilya Kraminsky, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M1505T), Bloomfield, on the basis of an unsatisfactory driving record.

As background, the appellant appeared on the Fire Fighter (M1505T), Bloomfield, eligible list, which promulgated on March 11, 2016 and expired on March 28, 2019. The appellant’s name was certified on December 7, 2018. The appointing authority returned the certification, removing the appellant on the basis that he was not psychologically suited for a Fire Fighter position. The appellant then pursued an appeal with the Civil Service Commission (Commission). On January 31, 2020, the appeal was brought before the Medical Review Panel (Panel), which recommended that the appellant be reinstated to the subject eligible list. The Panel’s report discussed all submitted evaluations. The Panel found that the test results and procedures and the behavioral record, when viewed in light of the job specification for Fire Fighter, indicated that the applicant was psychologically fit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should not be upheld. Accordingly, the Panel recommended that the appellant be restored to the eligible list. Upon its review, the Commission accepted and adopted the Panel’s findings and conclusions and ordered that the appellant be restored to the subject eligible list. Additionally, the Commission ordered that “[a]bsent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant’s appointment is otherwise mandated.” The appellant was also granted a retroactive

date of appointment to the date that he would have been appointed had he not been removed from the subject eligible list. *See In the Matter of I.A.R* (CSC, decided April 15, 2020).¹ Accordingly, the subject certification was returned to the appointing authority to properly dispose of the certification.

In disposing of the certification, the appointing authority requested that the appellant's name be removed due to an unsatisfactory driving record. Specifically, the appointing authority found that the appellant had a violation for driving while intoxicated (DWI) on July 18, 2020. Therefore, based on this driving record, the appointing authority's request for removal of the appellant's name from the subject certification was upheld.

On appeal to the Commission, the appellant maintains that his driving record does not warrant the removal of his name.

In response, the appointing authority provides a copy of the materials upon which it based its request to remove the appellant's name.

In reply, the appellant contends that the appointing authority does not articulate any basis for removal pursuant to *N.J.A.C. 4A:4-4.7, et seq.* He argues that the Fire Fighter job specification does not specifically require driving, but, nevertheless, he is duly licensed in the State; he has not been charged with any crimes in the State; and motor vehicle offenses do not warrant removal pursuant to *N.J.A.C. 4A:4-4.7, et seq.*

CONCLUSION

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 appointment.

N.J.A.C. 4A:4-6.3(b) provides that in examination and selection appeals, the appellant shall have the burden of proof, except for medical or psychological disqualification appeals, where the appointing authority shall have the burden of proof.

In this matter, the appointing authority removed the appellant from the subject eligible list based on his driving record, which was ascertained through the updated background check after the appellant's successful appeal of his psychological disqualification for the Fire Fighter position. The appellant's history reveals a DWI

¹ The record indicates that appointments were made from the subject certification effective February 21, 2019.

offense, a serious violation of the motor vehicle laws. Although the appellant counters that the Fire Fighter job specification does not specifically require driving, it must be noted that the removal of eligibles from Fire Fighter lists on the basis of an *adverse background* has been upheld. See *In the Matter of James Alessio* (MSB, decided March 9, 1999). In that case, the eligible attempted to deceive the appointing authority regarding his three prior arrests and the actual reason supporting his separation from the Postal Service, *i.e.*, his 1992 conviction for a federal offense which was committed during this employment. In *Alessio, supra*, it was concluded that such disregard is unacceptable in a Fire Fighter who operates in the context of a paramilitary organization in which the ability to follow orders is crucial to saving lives. *Karins v. City of Atlantic City*, 152 N.J. 532, 552 (1998) was relied upon in that matter. In *Karins*, the Supreme Court stated:

Firefighters are not only entrusted with the duty to fight fire; they must also be able to work with the general public and other municipal employees, especially police officers, because the police department responds to every emergency fire call. Any conduct jeopardizing an excellent working relationship places at risk the citizens of the municipality as well as the men and women of those departments who place their lives on the line on a daily basis. An almost symbiotic relationship exists between the fire and police departments at a fire.

In this case, the appellant's DWI offense is relevant to the position sought as the event is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of the duties of a Fire Fighter. The Commission is mindful that the public expects Fire Fighters to present a personal background that exhibits respect for the law and the rules. Accordingly, the appointing authority has presented sufficient cause to remove the appellant's name from the subject eligible list, and the appellant has failed to meet his burden of proof in this matter. Because this particular case is better characterized as a matter involving an unsatisfactory background report, the appellant's disposition on the certification shall be changed accordingly.

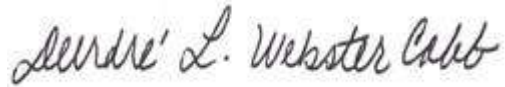
ORDER

Therefore, it is ordered that the removal of I.A.R.'s name from the eligible list for Fire Fighter (M1505T), Bloomfield, be upheld on the basis of an unsatisfactory background report.

It is further ordered that I.A.R.'s disposition on the December 7, 2018 certification be recorded as unsatisfactory background report.

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 12TH DAY OF OCTOBER, 2022



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