

In the Matter of Corey Grimes

CSC DKT. NO. 2009-2113

OAL DKT. NO. CSV 13932-09

(Civil Service Commission, decided May 18, 2011)

Corey Grimes appeals the decision of the Division of Local Human Resource Management, which upheld the removal of his name from the eligible list for Police Officer (S9999H), Newark, due to an unsatisfactory background report was heard by Administrative Law Judge Irene Jones, who rendered her initial decision on January 14, 2011. Exceptions were filed on behalf of the appellant.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting on May 18, 2011, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

ORDER

The Civil Service Commission finds that the action of the Division of Local Human Resource Management in removing the appellant's name from the eligible list was justified. The Commission therefore affirms that action and dismisses the appeal of Corey Grimes.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 13932-07

AGENCY DKT. NO. 2009-2113

**IN THE MATTER OF COREY GRIMES,
CITY OF NEWARK.**

Corey Grimes, pro se

Brendan E. Egan, Assistant Corporation Counsel, for respondent, City of Newark (Julien X. Neals, Corporation Counsel, attorney)

Record Closed: August 20, 2010

Decided: January 14, 2011

BEFORE **IRENE JONES**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Appellant, Corey Grimes, appeals the decision of the respondent, appointing authority, City of Newark Police Department (“respondent” or “Department”) that removed his name from the eligible list for Police Officers. In a decision dated November 7, 2008, the Department of Personnel, Division of Human Resource Management affirmed the removal.

Appellant promptly filed an appeal with the Merit System Board, Civil Service Commission. On December 4, 2009, the Civil Service Commission rendered a decision that found that a “material dispute of fact” existed which required a hearing so that the credibility of the appellant could be assessed and the appointing authority’s evidence could be evaluated. On December 18, 2009, the matter was transmitted to the Office of Administrative Law for hearing as a contested case. A hearing was held and concluded on June 23, 2010. Posthearing submissions were filed on August 20, 2009 at which time the record closed.

FINDINGS OF FACTS

Based on the record, I **FIND** the following **FACTS**:

On October 5, 2007, appellant completed a Background Investigation Questionnaire as a part of his application for employment with the Newark Police Department. In his questionnaire, appellant reported that:

- (1) He was born on November 26, 1982.
- (2) He is also known as “CoreyGee” and this name is tattooed on his left arm.
- (3) He has a tattoo on his left arm of a boy wearing a cap.
- (4) He has a tattooed on his right arm “in a place by yourself, Veronica” with a heart.
- (5) He has the name “Mary Baker” tattooed on his stomach.
- (6) He was employed as a Corrections Officer with Essex County. He was also employed with Continental Airlines.
- (7) He was finger printed in 2004-2005 for employment with the Airport.

- (8) Although, he is familiar with street gangs and their subsets, appellant denied having any affiliation or association with them. He further denied that he or anyone that he knew had ever associated with a gang.
- (9) Appellant reported that he attended Hawthorne Avenue Elementary School for the 7th and 8th grades.
- (10) He reported that in addition to his annual salary from his full-time position as a Corrections Officer, he also earned a salary from part-time employment as a baggage handler with Continental Airlines.

DISCUSSION

The respondent reviewed the appellant's application, interviewed him and conducted an investigation. Thereafter, an Investigation Disposition Summary report issued on November 14, 2007. (R-1). The report concluded that the appellant's candidacy be disapproved because he was (1) "gang affiliated" and (2) had falsified/omitted information in his candidate's booklet." The summary further concluded that the appellant had a "poor employment history". In all other respects, the appellant fared well.

R-1 and R-2 was prepared by Detective Kevin Connell (Connell) an 11 year veteran of the Newark Police Department, ("Department" or "NPD"). At the time of the appellant's application, Connell was assigned to the Department's Investigation Section which is responsible for investigating potential police officers. Connell has street level familiarity and expertise on gangs. He was previously assigned to the NPD's Narcotics and Gang Unit where he conducted gang intelligence activities, developed extensive experience and expertise about subversive criminal organizations and their operations – in particular gangs and their subdivisions. These subversive criminal organizations include the gang

commonly known as the “Bloods,” and subsets of same to wit: “Nine Trey Gangster Bloods,” aka – “Nine Three,” “9-3,” “Tek Game,” and “Nine Tech.”

In his background investigation report, the appellant denied affiliation with any street gangs. (R-6). He did acknowledge being familiar with street gangs. Connell disputes the appellant’s denial and asserts that the appellant falsified his application when he denied membership and or affiliation with the Nine Trey Gangster Bloods. At the hearing, Connell noted part of the culture of most gangs is to wear a specific color to signify their gang affiliation. Red is the color for the Bloods. The appellant has “Blood” tips (light brown-colored tips) on his dreadlocks which is a common hair style for the Bloods. The appellant also wore a red undershirt underneath his dress shirt for his interview. At a subsequent interview, appellant left the Franklin Street Station and was spotted wearing a red baseball cap that was tilted to the right side. The Bloods are known to wear their caps tilted to the right side while their rival gang, “The Crips” wear their caps tilted to the left side. The appellant also departed in a red car wearing the red baseball cap.

The investigation unit also looked at social networking sites. Photos of the appellant were posted on “My Space.” R-4 is a photo of the appellant as it appears on his My Space page. In the upper right hand corner, the words “TEK UP” are written in red. McConnell states that “Tek Up” is a specific reference to the “Bloods” subset organization the “Nine Trey Gangster” (a.k.a – “Tech” or “Tek Game”). “TEK UP 2007” is also known as “Nine TEK”; “TEK gang NTG- 9 3.” The term “TEK UP” means to keep your head (guns) up.

Additionally, there are several photographs of appellant, in various poses taken at different times, wearing solid red-color clothing. One of the photos depicts the appellant and six black males, all using specific hand gestures to denote gang affiliation. This photograph also contains the text “Da Hood Miss

you son,” “R.I.P. Speed,” and “Tek Up.” The text “Tek Up” is written in red-colored font and is accompanied by two red arrows, pointed upward.

Respondent asserts that the appellant’s tattoo on his left arm “Corey Gee” is a reference to “Gangsters” from the south side of the City. This is a reference to either the “Nine Trey Gangsters,” or to the “South Side Cartel,” a known subset of the “Nine Trey Gangsters.” This subset is considered an East Coast Blood subset.

Also, depicted in one of the photos is the term “B.I.P”. This term is an acronym commonly used by the Bloods to mean “Bang in Peace,” or “Blood in Peace,” and refers to a deceased Bloods gang member.

The reference to “BASS BILLY” in one of the photos is a variation of the name “Billy Badass” which is a generic term used to signify membership within the “Nine Trey Gangster Bloods”.

The phrase “. . . until the Klipp fall,” was also used in the photo. It refers to a firearm magazine being emptied as the weapon is being repeatedly discharged. Other expressions on the appellant’s My Space photos included:

M@n FucC Wat u \$ay I G^0t W@t I W@Nt...!!!

“(M.O.B) DATS DA MOTTO I FOLLOW TAKE DAT TO DA GRAVE. I SWALLOW 8 HOLLOWES!!”

Connell asserts that “I Swallow 8 Hollows,” refers to a Bloods gang member being killed by a member of its rival gang – the “Crips”. “MOB” is a very common acronym used by “Bloods” street gang members and signifies “Member of Bloods.” Moreover, the use of “G,” or “GEE” as used in the appellant’s “MySpace” web posting is common among Bloods members and is frequently

used to represent the word "Gangster". It is a shortened version of the term "Original Gangster." (R-2.)

Significantly, Connell asserts that if one were not a member of a gang, using gang identification or representing themselves as a gang member would be "pretty" dangerous. The photo of the appellant on his My Space web page wearing a red hat, red shirt and turning his hat to the right side backward represents a Blood affiliation. The second picture of the appellant wearing a red jacket was also indicative of Blood affiliation. Connell further noted that gangs use hand signals with each gang having a signal that is unique to them.

The appellant denies ever being affiliated with any gang and notes that he has 7000 My Space friends. He further denies using any specific gang language and asserts that he pays little attention to the language he uses. His hairstyle-dreadlocks are just a fad or trend where the ends of the locks are dyed dark brown. His hair style has nothing to do with any gang affiliation.

He attended Hawthorne Avenue elementary school and Weequahic High School where he was Vice President of Student Government. The "H" signal that is used in his My Space webpage refers to Hawthorne Avenue School. Further, he took this photo from another website because his friend and classmate "Maurice" is in the photo. Maurice is now deceased and the "RIP" on the lower right corner of the photo refers to him. It was at the Hawthorne Avenue School where he met Taron whom he called Peanut. He does not believe that Taron is a gang member.

Appellant admits knowing Patrick Caldwell as he is Caldwell's goddaughter's uncle. He denies however ever seeing Caldwell engage in any illegal activity. In any event, Caldwell is not a friend. The tattoos on his body are of his sister Veronica and his grandmother, Mary Baker.

He admits to having a red hat and claims he wore it to the interview where he was told to remove it. He admits to wearing a red undershirt on the day of his interview. He wears red frequently simply because he likes the color and wears lot of colors. He denies getting into a red car asserting that he was picked up by his cousin, Detective Stephen Edwards, after the interview. Edwards drives a Black Monte Carlo.

He is employed by Continental Airlines as a baggage handler as position he has held since 2005. Prior to his current employment, he worked briefly as a Corrections Officer. He left after two months because his mother was ill, suffering from depression. The position at the airline provided greater flexibility allowing him to assist his mother.

DISCUSSION, FINDINGS AND CONCLUSIONS

Based on the testimony, I **FIND** persuasive that the appellant's dreadlocks are merely a hairstyle and do not indicate gang membership.

I **FIND** that the appellant's tattoos's "CoreyGee" does not indicate that he is a member of a gang.

I **FIND** that the appellant did not present sufficient credible evidence to prove that he did not know that some of the individuals and references (South Side G's, "Tek Up", "MOB") on his "My Space" are associated with street gangs.

I **FIND** that the appellant has not refuted that terms "BIP" "TEK UP" "I Swallow 8 Hollow" and "MOB" are all gang related terminology that appears on his My Space website.

I further **FIND** that while the respondent did not prove conclusively that the appellant was a member of street gang, I **FIND** that the appellant failed to refute

that SouthSide G and M@n FucC Wat u \$ay I G0t W@t I W@Nt!!! are not gang members. Both individuals are linked to the appellant's website and he admits that he knows their true identities. SouthSide G's is a black male who resides in Newark. His website and M@n FucC Wat u \$ay I G^0t W@t I W@Nt!!! website contains gang terminology and show SouthSide G's wearing a red colored shirt and cap.

In light of the foregoing findings, the issue presented is whether the appellant has proved by a preponderance of the credible evidence that the Appointing Authority's decision to remove his name from the Department's police eligibility list was in error in accordance with N.J.A.C. 4A:4-6.3(b) and N.J.A.C. 4A:4-4.7(d).

It is not disputed that the Appointing Authority can seek the removal of any individual for reason. N.J.A.C. 4A:4-4.7(a) and N.J.A.C. 4A:4-6.1(a) 7 allows the Commission to remove an individual from an eligible list who has a prior employment history that is adverse to the position sought. The regulations (N.J.A.C. 4A:4-4.7(a)1 and 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 reason" includes, but is not limited to, a consideration that an eligible background is not suitable with the position sought. Thus, a candidate has been removed from a law enforcement eligibility list where his/her driving record contains certain infractions that reflect a disregard for the law and incompatible with the duties of a law enforcement officer. See *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1988); *In the Matter of Yolanda Colson, Correction Officer Recruit (S9999A) Department of Corrections*, Docket No. A-5590-00T3 (App. Div. June 6, 2002).

Law enforcement personnel and law enforcement candidates are held to a higher standard than the general public. Indeed, a Municipal Police Officer must

enforce and promote adherence to the law. It is well recognized municipal police officers hold highly visible sensitive positions within the community, thus police applicants must be of good character and present an image of utmost confidence and trust. In the Matter of Priscilla Noel, Police Officer (S9999H), Atlantic City CSC Docket No. 2008-3070, 2009 NJ CSC Lexis 71, September 3, 2009. Simply put, a police officer is a special kind of public 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).

In the instant matter, the record supports that the appellant engaged in unsavory conduct on his MySpace website. His language, dress and social network associations are not typical of a law enforcement candidate or officer. The appellant denies that he is in a gang. He asserts that he wears red simply because he likes the color. He denies that the individuals on his web site are current affiliations. He denies that the wording and signing depicted on his website is gang related.

He does not dispute however that the color red is one of the most notorious indicators of Blood membership. Appellant admits to wearing red on more than one occasion. Further, while he denies any knowledge of the people (Taron, Maurice or Patrick Caldwell) being affiliated with any gang or illegal activity, they were nevertheless on his MySpace website.

Appellant was 25 years old when he applied for employment with the Department. He was old enough to appreciate that any association with suspect individuals would have a negative impact on his chances of becoming a police officer. Likewise, the use of foul language on his web page would also adversely impact his employment opportunities.

I have carefully considered the character letters submitted by the appellant. These references speak highly of him and are at odds with his website. However, since the individuals who authored the letters did not testify in this proceeding, how well they knew the appellant cannot be ascertained. While there exist some ambiguity as to whether the appellant is a member of a gang, I **FIND** he has failed to prove by a preponderance of the credible evidence that he does not have adverse affiliations. While I cannot conclude that he is in fact a member of a gang, he has not sustained his burden of proving by a preponderance of the credible evidence that he is not so affiliated. Thus, I hereby sustain the removal of the appellant's name from the police eligibility list.

The Appointing Authority asserts that the appellant falsified his employment application when he denied knowing or being affiliated with any street gang or knowing anyone who was currently or formerly associated with a street gang.

Falsification is an intentional act. It requires intent to mislead or omit a material fact. Here, the appellant denies knowing that two of the individuals on his "My Space" website are gang affiliated. He does not hang around them and is unaware of their gang affiliation. While the appellant has failed to prove by a preponderance of the credible evidence that he did not know that the individuals were gang affiliated, the respondent failed to demonstrate that the appellant did in fact know of their gang affiliation. .

I hereby **FILE** my initial decision with the **MERIT SYSTEM BOARD** for consideration.

This recommended decision may be adopted, modified or rejected by the **MERIT SYSTEM BOARD**, which by law is authorized to make a final decision in this matter. If the Merit System Board does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen (13) days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, MERIT SYSTEM PRACTICES AND LABOR RELATIONS, UNIT H, DEPARTMENT OF PERSONNEL, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

January 14, 2011



DATE

IRENE JONES, ALJ

Date Received at Agency:

Date Mailed to Parties:

sej

APPENDIX

WITNESSES

For Appellant:

Corey Grimes, appellant

For Respondent:

Detective Kevin Connell

EXHIBITS

For Appellant:

- P-1 Letter dated January 9, 2009
- P-2 Letter dated February 2, 2009
- P-3 Letter dated February 9, 2007
- P-4 Letter dated November 21, 2008
- P-5 Letter dated January 2, 2009
- P-6 Letter dated January 5, 2009

For Respondent:

- R-1 Investigation Disposition Summary
- R-2 Administrative Submission 11/30/07
- R-3 Release Authorization
- R-4 Photos
- R-5 My Space Website page
- R-6 Background Investigation Questionnaire