



STATE OF NEW JERSEY

In the Matter of M.N., Parole Officer
Recruit (S0232D), State Parole Board

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

CSC Docket No. 2024-574

List Removal Appeal

ISSUED: February 7, 2024 (SLK)

M.N. appeals the decision to remove his name from the Parole Officer Recruit (S0232D), State Parole Board eligible list on the basis of an unsatisfactory background report.

The appellant took the open competitive examination for Parole Officer Recruit (S0232D), State Parole Board, which had a February 28, 2022, closing date, achieved a passing score, and was ranked on the subsequent eligible list. His name was certified (OS230120) and he was ranked sixth. In seeking his removal, the appointing authority indicated that the appellant had an unsatisfactory background report. It is noted that the appellant applied to a prior Parole Officer Recruit open competitive examination where he was removed for an unsatisfactory background report. On October, 23, 2019, the Civil Service Commission (Commission) denied his appeal,¹ determining that the appointing authority had a valid reason for removing the appellant's name from Parole Officer Recruit eligible list first, because he had been employed as an Atlantic County Sheriff's Officer from 2009 to 2013, where after multiple incidents, he resigned in good standing. Thereafter, he was employed as a County Police Officer for Camden County from 2013 until 2015 where there were also multiple incidents, which led to the appellant agreeing to not seek future employment with Camden County in return for the appointing authority accepting his resignation

¹ Additionally, in an April 4, 2018, decision, the Commission denied M.N.'s appeal of the removal of his name from the Sheriff's Officer (S9999U), Atlantic County eligible list for falsification of his employment application.

in good standing, effective February 28, 2015. The Commission reasoned that the appointing authority was justified in removing the appellant's name from the list because the appellant was unable to sustain long-term employment with two separate law enforcement agencies due to multiple incidents. In this matter, the appointing authority removed the appellant's name from the list for the same reasons as articulated in the Commission's prior decision.

On appeal, the appellant states that the appointing authority removed his name from the subject eligible list because he signed a settlement agreement in 2015 with Camden County which it is construing to signify that he cannot reapply for a position in law enforcement because of his employment history. The appellant asserts that he has rehabilitated his employment history since February 2015 by working with the New Jersey National Guard and the Atlantic City Police Department. Further, the appellant contends that his settlement agreement with Camden County differs from case law presented by the appointing authority where an employee agreed to settle a matter to avoid adjudication of discipline. He provides that in his case, he made a settlement offer to Camden County, which it accepted. Regardless, the appellant highlights that his settlement agreement with Camden County did not preclude him from applying for positions with other law enforcement agencies, and he has worked for the Atlantic City Police Department since 2016. He provides that in his positions with the New Jersey National Guard and the Atlantic City Police Department, he has investigated crimes and made arrests. However, the appellant states that the appointing authority did not reinvestigate his current background. Further, he highlights that the Commission previously found that there was insufficient time for him to demonstrate rehabilitation because his last incident with Camden County was in February 2015 and the closing date for the prior Parole Office Recruit examination was on June 21, 2016. However, the appellant emphasizes that he has been employed by the Atlantic City Police Department for approximately seven years without any discipline.² He also notes that he passed a background check and is now a public school substitute teacher. Further, the appellant presents that he has passed a security clearance for the Department of Defense, and he was selected by the New Jersey National Guard and the United State Army to hold the prestigious position of Officer Candidate in the State's Officer Candidate School. He asserts that this signifies he has been entrusted to carry weapons, lead soldiers, educate and protect children, and have access to classified and highly sensitive criminal information. Moreover, he works as a car sharing host on Turo where he has all-star rating with more than 100 public customer evaluations. Additionally, the appellant states that he is an independent journalist with more than 17,000 followers who trust him. He also presents that since the Commission's previous decision, he has addressed his service-connected disabilities, where these

² Personnel records indicate that the appellant was hired by Atlantic City as a Special Law Enforcement Officer on December 30, 2016, and his unclassified employment was discontinued on May 12, 2023.

disabilities impacted his prior employment. He indicates that he has been under the care of a physician for the past three years.

In response, the appointing authority presents that the appellant indicated on his employment application that he has been subject to employment disciplinary actions in nearly every job that he has held. Further, the appellant provided on his application that his employment evaluations ranged from excellent to unsatisfactory. Additionally, the appellant disclosed on his application that as a law employment officer, he had been subject to internal investigations and citizen complaints. Moreover, the last time the appellant applied for a position as a Parole Officer Recruit, it reached out to his prior law enforcement employers who disclosed the various employment issues that the appellant had. It highlights that Camden County sought his removal and the appellant reached a settlement agreement in 2015 where he agreed to resign in good standing with the caveat that he would not seek employment with Camden County or the Camden County Police Department. It cites case law where a settlement agreement that a candidate agreed to in lieu of discipline was a valid reason to remove that candidate from a law enforcement eligible list. Further, the appointing authority argues that although the appellant is claiming that his settlement was different from other cases, the record indicates that the appellant reached a settlement in lieu of discipline and is a valid basis for his removal. Moreover, although the prior Commission decision indicates that there was insufficient time for the appellant to indicate that his employment history had been rehabilitated, the appointing authority argues that the appellant is currently unable to show that his employment history has been rehabilitated as the appellant's assertion that his part-time employment with the Atlantic City Police Department where he has not been disciplined, his "all-star" rating for a car sharing application, his independent journalist work, and substitute teacher experience does not erase its "automatic disqualifiers" for a position as a Parole Officer Recruit. Also, his part-time employment with the Atlantic City Police Department, even if he does not have any discipline, does not overcome his continuous difficulties in past positions in full-time positions which provide a better window as to what the appointing authority can expect if the appellant was hired.

In reply, the appellant asserts that while the appointing authority overly emphasizes that he avoided discipline in his 2015 settlement, it ignores that Camden County avoided civil litigation and corruption complaints with the State's attorney general's office and the FBI's office of official corruption by agreeing to the settlement. He presents that he chose to wear his own body camera after he was targeted for removal by a Police Sergeant after an incident, which at the time violated departmental rules. However, he notes that wearing body cameras is now required by law. The appellant contends that he wore a body camera to capture corruption in the Camden County Police Department. Therefore, although he broke the rules at the time, today he would be required to wear his body worn camera. Further, he contends that there is now corruption intervention training. He argues that his choice

to not pursue relief in Superior Court should not be viewed in the negative as he resigned in good standing and the cost would have been prohibitive as he was unemployed. The appellant contends that the appointing authority has not honored the Commission's prior decision by choosing not to perform an updated background check to see if his employment history has been rehabilitated as it has ignored the last nine years of his exceptional employment history. However, instead of researching his background, the appointing authority chose to disqualify him. He again highlights that he has 19 years of military service and 12 years of law enforcement experience.

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 having a prior employment history which relates adversely to the title.

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 the Commission is not going to relitigate the appellant's 2015 settlement agreement with Camden County. Regardless of the reasons why the appellant signed the agreement, his claim that his actions would be justified in today's environment, and his assertion that Camden County signed the agreement to avoid litigation just as much as he signed it to avoid discipline, the record indicates that the appellant signed this agreement in lieu of discipline, and therefore the record indicates that the appellant had an unsatisfactory employment history as of the time of the Commission's prior decision. However, while the appointing authority removed the appellant from the subject examination because the appellant violated its criteria for "automatic disqualifiers," the Commission is not bound by criteria utilized by the appointing authority and must decide each list removal on the basis of the record presented. *See In the Matter of Debra Dygon* (MSB, decided May 23, 2000).

Concerning whether the appellant has demonstrated sufficient rehabilitation to be a Parole Officer Recruit, personnel records indicates that the appellant was appointed as an unclassified Special Law Enforcement Officer for Atlantic County on December 30, 2016, and his unclassified appointment was discontinued on May 12, 2023. The record indicates that this position was part-time and the appellant asserts that he had not received any discipline in this position. Further, the appellant provides that he has been serving in the New Jersey National Guard, he is a substitute teacher, a ride share driver, and an independent journalist. However, while the Commission appreciates that appellant's law enforcement, military, and

other employment since his February 2015 agreement, the Commission notes that part-time employment, even in law enforcement and the military, is not the same as full-time employment in law enforcement and the challenges and demands that go along with such employment. Therefore, considering the high standards to be a law enforcement officer, as indicated in *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966) and *In re Phillips*, 117 N.J. 567 (1990), and the appellant's past where he was unable to hold long-term employment with two separate law enforcement agencies, the Commission finds that the appellant is unable to demonstrate sufficient rehabilitation to be a Parole Officer Recruit, which is a law enforcement position. The Commission notes that, with the further passage of time, should the appellant's employment history continue to be absent of disciplinary or other issues, such history will be insufficient 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 7TH DAY OF FEBRUARY, 2024



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