



STATE OF NEW JERSEY

In the Matter of Corey Grimes,
Fire Fighter (M2543M), Kearny

FINAL ADMINISTRATIVE
ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-4014

List Removal Appeal

ISSUED: **NOV 28 2016** (SLK)

Corey Grimes, represented by Catherine M. Elston, Esq., appeals the attached determination of the Division of Agency Services (Agency Services) upholding the removal of his name from the eligible list for Fire Fighter (M2543M), Kearny, on the basis of an unsatisfactory background report and falsification of application.

The appellant took the open competitive examination for Fire Fighter (M2543M), achieved a passing score, and was ranked on the subsequent eligible list. 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 and falsification of application. Specifically, the appellant was the subject of harassment complaints in 2012 and 2013 from one female and one harassment complaint in 2015 from another female, had accumulated many motor vehicle summonses, and did not include many of the motor vehicle summonses on his application.

On appeal, the appellant presents that he has worked for United Airlines for 11 years, which included driving baggage carts, and he never had an accident, had never been disciplined, and passed all background checks administered by the Port Authority. Additionally, he indicates that he has worked as a pipe fitter for the past 3 years which includes driving a "man-lift," a moving vehicle with an extension attached on top that extends up to three stories and can carry one or two persons, and he never had any incidents with this vehicle. The appellant highlights that he

is a father of a 6-year-old daughter and had previously provided for the care for his mother for 10 years. He submits multiple letters of reference from individuals who describe him as a hard-working, honest, and devoted family man.

With respect to his driving record, the appellant presents that his driver's abstract shows that his license has not been suspended or revoked and he does not have any points. He states that the Motor Vehicle Commission (MVC) normally provides driver's abstracts with five years of history and he previously provided Newark the same abstract which was acceptable. Further, the appellant notes that the appointing authority never told him that his five-year driver's abstract was insufficient and he listed on his application all of the violations that appeared on his five-year abstract. He maintains that it was reasonable that he did not remember the April 2008 and May 2010 obstruction and the May 2006 careless driving violations, as they were not listed on his five-year driver's abstract and these incidents happened long ago. He emphasizes that all but one of the moving violations were for no points and one was only a 2-point violation that occurred over 10 years ago. Further, the remaining summonses that he did not list were for non-moving violations including failure to inspect, failure to register, safety glass, failure to make repairs, driving with an expired license, and failure to display. The appellant claims that the appointing authority did not initially raise falsification or his driving record as issues when it disposed of the certification and these matters cannot now be used as a basis to remove his name from the list.

As to the 2015 incident where he was accused of harassing a woman on Instagram, the appellant certifies that he never saw this report prior to this appeal, he was never questioned by the police or anyone else about it, and he was not aware of this matter. In regard to the 2012 harassment charges, he presents that he was accused of having sex with an underage female after he ended their dating relationship, but the claim was found to be false. Additionally, the appellant states that this same female filed a second harassment claim against him in 2013 where she alleged that he sent texts to her demanding sex. However, this charge was also dismissed. In reference to the warrant that was issued against him for his failure to appear in court, he explains that the court mailed his notice to the wrong address and he did not get the notices to appear.

In response, the appointing authority, represented by Robert J. Merryman, Esq., indicates that the appellant listed 6 traffic tickets on his application and the application provided an opportunity for him to list his other tickets. However, the appellant received 34 tickets which means he failed to disclose 28 tickets. The tickets that the appellant failed to disclose include driving an unregistered vehicle, driving without a license, failure to possess an insurance card, 2 additional tickets for failure to wear a seat belt, failure to have inspection, 10 safety glass violations, careless driving, two obstructing passage of a vehicle, and running a red light. The appointing authority emphasizes that the appellant was required to include an

accurate list of driving tickets and the record confirms that he failed to do so. It contends that the appellant's claim that he failed to remember charges that were more than 5 years old, even if true, is not a legitimate reason, as he had an obligation to find out if he had additional tickets. With respect to the harassment charges, the appointing authority highlights that he had 3 incidents since 2012 with the most recent being in 2015 as a 32-year-old man, and the incident occurred only 1 month prior to his completing his employment application. The appointing authority argues that the totality of the appellant's background demonstrates that he lacks the character to be a Fire Fighter.

In reply, the appellant claims that the appointing authority changed its position by stating that his removal is not based on an unsatisfactory driving record, but for his failure to list certain infractions on his application which only presented itself after Agency Services' determination indicated that he could have been removed for falsification. In reference to his driving record, the appellant reiterates that he did not have any points on his license at the time of the application, did not have any driver's license suspensions, did not have any prior accidents, and did not have any Driving While Intoxicated or other serious moving violations. The appellant states that while the appointing authority alleges that he has 28 traffic tickets, it only referenced 20. Further, he points out that 14 of those tickets are for non-moving violations. These include 10 for "safety glass" violations and 4 for failure to have documents violations such as no insurance card and no inspection. Additionally, he presents that the remaining 6 traffic tickets include 2 no-point seat belt violations, 2 no-point obstructing passage violations, and a 2-point careless violation that occurred 10 years ago. He represents that he did not receive a violation for running a red light as the appointing authority alleges. The appellant maintains that none of the violations that he did not list on his application are material to the position sought, particularly since the possession of a driver's license is not a requirement for the position of Fire Fighter. Moreover, he asserts that his impeccable employment record including passing a number of background checks, his loyalty to his family, and his letters of reference demonstrate that he has the character and fitness to be a Fire Fighter.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the removal of an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

N.J.A.C. 4A:4-4.7(a)11, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, provides that the name of an eligible may be removed from an eligible list for other sufficient reason.

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 appointing authority's application review sheet stated that the "Background check revealed violations not listed in the application," "unsatisfactory background," "unsatisfactory driving record," "did not disclose all tickets, and "Reject - Failed to disclose." Therefore, contrary to the appellant's assertion that it was Agency Services' initial determination that raised the falsification issue, the appointing authority clearly indicated that falsification was one of the reasons that they were using to support their decision to remove his name from the eligible list. Further, the appellant was provided the application review sheet and supporting documentation which has given him ample opportunity to respond to the falsification claim and other reasons for his removal.

In the instant matter, the appointing authority had sufficient reason to remove the appellant's name from the subject eligible list. On appeal, the appellant acknowledged that he received 19 traffic tickets, 5 of which are for moving violations and 14 non-moving violations. Many of these offenses are for repeat offenses such as 10 "safety glass" violations. A review of his driver's abstract indicates that his first traffic offense was in 2006 for careless driving and his latest offense was in 2015 for having an unregistered vehicle. A review of his application indicates that he acknowledged that he received 6 traffic tickets after the March 31, 2010 closing date for the subject examination including 2 tickets for the same offense, not wearing a seat belt. Additionally, he has acknowledged that he was twice accused of harassment by the same female after the closing date. Further, there was an additional harassment accusation against him by a different female as recently as 2015. Therefore, the totality of the appellant's background demonstrates he lacks the character for a Fire Fighter position. Fire Fighters 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. *Karins v. City of Atlantic City*, 152 N.J. 532, 552 (1998). See also *In the Matter of Gerard Ambrosino* (CSC, decided July 15, 2015).

With respect to his assertion that his employment record, his being a family man, and his letters of reference demonstrate that he has the character to be a Fire Fighter, as stated above, his consistent negative interactions with law enforcement including numerous incidents after the closing date, suggest otherwise. In

reference to his argument that the harassment claims against him should not be considered since there was insufficient evidence to substantiate these accusations, at minimum, the appellant put himself in a position to be accused of harassment by two separate females which calls into question as to whether he has the judgment necessary to be a Fire Fighter. Regardless, even if the harassment accusations are not considered, his long history of traffic tickets, including repeating the same offenses such as "safety glass" and "seat belt" violations demonstrates that he lacks both the judgment and character necessary to be a Fire Fighter. Moreover, it does not matter that he passed his background checks for his employer as the appointing authority had sufficient reason to remove his name for the position of Fire Fighter.

The Commission also finds that the appellant falsified his application. His driver's abstract indicates numerous traffic tickets that were not on his application. The appellant attempts to explain this by stating that the MVC only provided him a five-year driver's abstract and he did not remember incidents that were more than five years old. However, the primary inquiry is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003). The appellant also argues that he thought that providing his five-year driver's abstract and only listing offenses on his five-year driver's abstract was sufficient because this was sufficient when he submitted his application to Newark for the position for Fire Fighter and the appointing authority never advised him that his five-year abstract was insufficient. However, candidates are responsible for the accuracy of their applications. *See In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Further, the appointing authority is not obligated to use the same standards as Newark in its background investigation. Additionally, the appellant argues that he did not falsify his application because his driving record is not material to the position sought since a driver's license is not required for the position of Fire Fighter. However, the issue is not whether the appellant is a good driver. The issue is, as stated above, whether he has the character to work with the general public and other municipal employees, especially police officers. At minimum, the appellant was required to provide this information so that the appointing authority would have complete information in determining whether the appellant had the character to be a Fire Fighter.

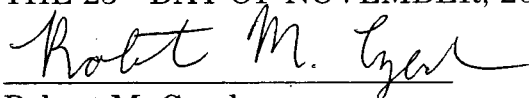
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Fire Fighter (M2600M) eligible list

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 23rd DAY OF NOVEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and

Correspondence

Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

- c: Corey Grimes
- Catherine M. Elston, Esq.
- Michael Martello
- Robert J. Merryman, Esq.
- Kelly Glenn



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AGENCY SERVICES
P. O. Box 313
Trenton, New Jersey 08625-0313

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

June 7, 2016

Catherine Elston
C. Elston & Associates, LLC
3350 Route 138
Building 2, Suite 123
Wall, NJ 07719

RE: Removal of Name from Eligible List – Corey Grimes

Title: Fire Fighter
Jurisdiction: Kearny
Symbol: M2543M
Certification No: OL150327
Certification Date: 03/16/15

Dear Ms. Elston:

This is in response to your correspondence contesting the removal of your client's name from the above-referenced eligible list.

The Appointing Authority requested removal of your client's name in accordance with N.J.A.C. 4A:4-4.7(a)11, which permits the removal of an eligible candidate's name from the eligible list for "valid reasons as determined by the Chairperson of the Civil Service Commission or designee". Furthermore, per 4A:4-4.7(a)4(ii), "The presentation of a pardon or an expungement shall prohibit removal from a list, except for law enforcement, correction officer, juvenile detention officer, firefighter or judiciary titles and other titles as the Chairperson of the Civil Service Commission or designee may determine."

In support of its decision, the Appointing Authority provided copies of selected pages of your client's application and other documents which indicate that your client was charged with Harassment on September 9, 2012 and had accumulated many motor vehicle summonses, several of which he neglected to include in his application. For these omissions, the Appointing Authority could have removed your client for falsification of the application. Your client also had a warrant issued against him for Failure to Appear.

In your correspondence, you indicate that your client received an abstract from the Department of Motor Vehicles that included only offenses in the past five years, and that he had forgotten about the two summonses for obstruction and a careless driving summons because they were not listed on the abstract. You also explain away most of the remainder of the tickets, dismissing them as "paper" tickets because they were not moving violations. Nonetheless, the tickets were issued because your

client failed to comply with the laws of the state. You argue that the Failure to Appear was due to the notice being sent to the wrong address; however, you do not provide any explanation for the underlying issues which caused the court to issue a letter demanding your client's appearance in court.

Recognizing the nature of the position at issue, the Appointing Authority may consider your client's background when determining eligibility for the position of Firefighter. After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your client's name to the eligible list. Therefore, the Appointing Authority's decision to remove Mr. Grimes name has been sustained and your appeal is denied. Furthermore, Symbol M2543M expired on December 12, 2015; there will be no further certifications issued from this eligible list.

In accordance with Merit System Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010 C.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, C. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees.

Address all appeals to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Appeals Record Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,

For the Director,



Elliott Cohen,
Local Placement Services

Michael Martello, Administrator
Town Of Kearny
402 Kearny Ave
Kearny, NJ 07032