

were. The appellant states that several individuals responded yes, stated their offenses, but were permitted to continue with the employment process. However, he was notified that he would not be continuing in the process and questions the exact issue in his background report that barred him from the position.

CONCLUSION

N.J.S.A. 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 provide that an eligible's name may be removed from an eligible list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

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 removal of 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. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a law enforcement officer. See *In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

Although the appellant's arrest and conviction were for a disorderly persons offense and cannot give rise to the disability arising under *N.J.A.C.* 4A:4-4.7(a)4, the fact that the appellant was involved in such activity reflects upon his character and his ability to perform the duties of the position at issue. See *In the Matter of Joseph McCalla*, Docket No. A-4643-00T2 (App. Div. November 7, 2002). In the matter at hand, the record establishes that the appellant had four adverse encounters with law enforcement between 2004 and 2015 and the appointing authority indicates that he received three driving tickets between 2013 and 2016 and that his license was suspended once for child support in 2015. Indeed, his last arrest occurred on April 18, 2015, and his driving infractions occurred during the life of the subject list. While he argues that other unnamed applicants were permitted to continue with the employment process even though they indicated

criminal offenses, the appellant's multiple arrests and recent violations of motor vehicle laws are indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of duties of a Police Officer. In this regard, the Commission notes that Police Officers hold highly visible and sensitive positions within the community, and the standard for an applicant includes good character and an image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). The public expects Police Officers to present a personal background that exhibits respect for the law and the rules.

With respect to his work record and school attendance records, it is not necessary to address these issues since the Commission has upheld the removal of his name on other grounds. Additionally, the subject list has expired and the appointing authority did not make any appointments of lower ranked eligibles on the list. Accordingly, given the totality of the circumstances, the appointing authority has presented sufficient cause to remove the appellant's name from the Police Officer (S9999R), Elizabeth 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 4TH DAY OF OCTOBER, 2017



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