



**STATE OF NEW JERSEY**

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

In the Matter of Nolan Fdyfil, Fire  
Fighter (M1544T), Jersey City

CSC Docket No. 2017-2485

List Removal Appeal

**ISSUED: November 2, 2017 (CSM)**

Nolan Fdyfil, represented by Michael L. Prigoff, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M1544T), Jersey City, on the basis of an unsatisfactory background report.

In disposing of the August 17, 2016 certification, the appointing authority requested removal of the appellant’s name from the eligible list, contending that he had an unsatisfactory background report. Specifically, the appointing authority indicated that the appellant admitted using marijuana within three years prior to his application for the subject examination, his lengthy adverse employment history and resulting terminations, two incidents that he was involved in with the Jersey City Police Department, repeated motor vehicle violations, and a false submission made during the application process regarding his social media page.

On appeal, the appellant states that he does not have an adverse background report and indicates that he requested that the appointing authority provide him the documentation it provided to the Civil Service Commission (Commission) in support of its request to remove his name from the list.

In a response dated March 8, 2017, the appointing authority, represented by Stephanie A. Brown, Assistant Corporation Counsel, indicates that it provided the appellant’s counsel the materials it relied upon to remove the appellant’s name from the list. Specifically, it states that in May 25, 2015, the appellant was issued a summons for disorderly conduct after the police were called to his home after his mother informed them he became irate, belligerent and aggressive as a result of his

drinking at a barbeque. Further, in January 2009, a female co-worker filed a complaint against the appellant with the police after he went to the woman's home, called her to come outside, then proceeded to call her a "whore" and a "tramp" for 40 minutes. Additionally, the appointing authority provided a copy of the appellant's driver's abstract that indicated he received eight moving violations between June 2007 and December 2009 and that his driver's license had been suspended three times between 2009 and 2015. Moreover, the appointing authority indicated that between 2007 and 2015 the appellant had 13 different jobs, noting that he "simply left" several of these positions by not returning to work, being disciplined, terminated, and on one occasion walking off the job because he did not like an assignment. The appointing authority maintains that this extensive history of job abandonment, disciplinary issues, and terminations causes it serious concerns when evaluating if he would be a fit candidate for the position of Fire Fighter. Additionally, it states that the appellant responded affirmatively that he used marijuana within three years of applying for the subject title.

Although provided the opportunity, the appointing authority did not provide any additional information or argument for the Commission to review in this matter.

## 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 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. *N.J.A.C.* 4A:4-6.1(a)7 states that an eligible may be removed from the list who has 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.

In the instant matter, the appointing authority properly removed the appellant's name from the subject list. Although provided the documentation by the appointing authority in support of its request to remove his name from the list and offered the opportunity to respond, the appellant has not presented any argument or information that the appointing authority's decision to remove his name from the eligible list was in error. Therefore, the appellant has not sustained his burden of proof and his appeal can be denied on that basis alone. Regardless, the record clearly reflects that the appellant's contacts with law enforcement, driving record, terminations and disciplinary actions at multiple jobs, and admitted use of marijuana, considering the nature of the position, warrant his removal from the subject list. In this regard, it is recognized that a firefighter occupies a highly

visible and sensitive position within the community and the standard for an applicant includes a good character and utmost confidence and trust. Therefore, the appointing authority has presented a sufficient basis to remove the appellant's name from the Fire Fighter (M1544T), Jersey City 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 1<sup>ST</sup> DAY OF NOVEMBER, 2017



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