



**AFFIRMED**  
MOTOR VEHICLE COMMISSION

State of New Jersey *ORLA*  
OFFICE OF ADMINISTRATIVE LAW Date 5-15-15

**INITIAL DECISION**

OAL DKT. NO. MVH 01708-15

AGENCY DKT. NO. SXXXX XXXXX 04672

**MOTOR VEHICLE COMMISSION,**

Petitioner,

v.

**ANTHONY J. SINGLETON,**

Respondent.

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**Motor Vehicle Commission,** petitioner, appearing on the papers only, pursuant to  
N.J.A.C. 1:1-5.6(a)

**Anthony J. Singleton,** appearing pro se

Record Closed: March 10, 2015

Decided: March 31, 2015

BEFORE **GAIL M. COOKSON,** ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

This proceeding is brought under N.J.S.A. 39:3-10.1 and N.J.A.C. 13:21-14.5(a) and (c) to suspend indefinitely the New Jersey passenger endorsement on the Commercial Driver License (CDL) of respondent Anthony J. Singleton. The issues are whether respondent committed a disqualifying crime or offense within the meaning of

N.J.A.C. 13:21-14.5(a) and (c), and, if so, whether respondent has affirmatively demonstrated sufficient rehabilitation to justify a waiver under N.J.A.C. 13:21-14.5(d).

By Scheduled Suspension Notice dated on or about May 1, 2014, the Motor Vehicle Commission (Commission) proposed to suspend respondent's passenger endorsement indefinitely because he failed to satisfy the requirements for the endorsement on his CDL based on information that he had a disqualifying criminal arrest and/or conviction record. Respondent timely requested a hearing. The Commission conducted an informal pre-hearing conference on November 3, 2014. The Commission transmitted the matter to the Office of Administrative Law (OAL) where it was filed on February 3, 2015, for determination as a contested case. The undersigned held a hearing on March 10, 2015, and, after the conclusion of testimony, the record closed. The Commission relied upon the packet of discovery materials in support of its Notice and chose not to appear or present testimony at the hearing.

### **FINDINGS OF FACT**

The relevant facts are not disputed. Based upon a review of the testimony and the documentary evidence presented, I **FIND** the following **FACTS**:

1. Respondent is currently forty-seven years of age and financially supports his family through part-time employment providing transportation to clients of The New Essecare of NJ, LLC. Respondent has three adult children with whom he maintains a relationship. He has lived with his girlfriend and her son, age thirteen, for seven years. Respondent is a strong father figure for his stepson whom he takes to karate lessons and keeps disciplined in his school work.
2. Respondent holds a commercial driver's license with a passenger endorsement. N.J.A.C. 13:21-23.12. Respondent's Abstract of Driver History indicates that he has never had any points or accidents against his license.
3. On or about May 1, 2014, the Commission issued respondent a Scheduled Suspension Notice from which respondent appealed.

4. The Commission submitted documents in support of its contention that respondent had disqualifying criminal records. Respondent does not dispute the criminal records presented by the Commission but argues that he has succeeded in turning his life around.

5. The predominant charges against respondent relied upon by the Commission are that he served a five-year sentence in 2005 for burglary, a probationary term for receipt of stolen property in 2008, a probationary term in 2010 for burglary, and then finally he was placed under the jurisdiction of the Drug Court on burglary charges in March 2013.

6. Respondent admitted that he led a difficult life which involved hanging with the wrong people, getting involved in drugs and then theft in order to support the drug habit. He was arrested on Thanksgiving 2009 and that was the last day he used drugs. Respondent credibly stated that he has been clean ever since and that that arrest saved his life. He has been fully compliant with the drug programs, aftercare, NA meetings, urine monitoring, curfew, mandatory community service, employment, and restitution. He will be working toward his GED this spring. His employer is supportive of his work ethics and his efforts.

7. Among other letters of reference, respondent's counselor at the New Jersey Department of Labor and Workforce Development, Division of Rehabilitation Services stated that respondent has "demonstrated great strengths, abilities, and dedication to the vocational process and has managed to overcome many obstacles to achieve his goal of obtaining his CDL. Despite these barriers, Mr. Singleton remained humble and determined to change his life."

#### **LEGAL DISCUSSION AND CONCLUSIONS OF LAW**

Under the police authority of the State, the Administrator of the Commission has the right to impose reasonable restrictions on the issuance of licenses for various occupations in order to protect the public health and safety. Sanders v. Division of Motor Vehicles, 131 N.J. Super. 95, 97 (App. Div. 1974). It further has been said that

the primary objective of administrative proceedings before the Director "is to foster safety on the highway." Atkinson v. Parsekian, 37 N.J. 143, 155 (1962).

In 1986, the federal Commercial Motor Vehicle Safety Act was enacted at 49 U.S.C. §2701 to 2718. Section 2708 of the federal act required the states to adopt commercial driver licensing laws in compliance with federal standards or have their highway funds withheld. In response, the legislature enacted the New Jersey Commercial Driver License Act in 1990. N.J.S.A. 39:3-10.9 to 10.31. Under rules promulgated by the Commission regarding the right of a commercial driver to have a passenger endorsement, N.J.A.C. 13:21-14 et seq., the Administrator --

may not issue a passenger endorsement, or may revoke or suspend the passenger endorsement of any person when it is determined that the applicant or holder of such license has:

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12. A criminal record that is disqualifying. The phrase "crime or other offense" as used hereinafter shall include crimes, disorderly persons offenses or petty disorderly persons offenses as defined in the "New Jersey Code of Criminal Justice" and any offenses defined by any other statute of this State. A driver has a disqualifying record if:

i. He or she has been convicted of, or forfeited bond or collateral upon, any of the following:

\* \* \*

(3) A crime or other offense involving the use of force or the threat of force to or upon a person or property, such as armed robbery, assault and arson;

[N.J.A.C. 13:21-14.5(c)]

In addition, there are these general requirements for a person to hold such an endorsement: "Applicants shall be at least 21 years of age, have a minimum of three years driving experience, be of good character and physically fit and possess a valid New Jersey driver license." N.J.A.C. 13:21-14.5(a). The Commission charged respondent with respect to these disqualifying provisions.

Nevertheless, the law vests the Chief Administrator with discretion on this type of suspension both because of the permissive use of “may” rather than the mandatory “shall” language above and because it has reserved the right to waive any portion of the disqualifying regulation “[if] sufficient and reasonable grounds are established at a hearing....” N.J.A.C. 13:21-14.5(d). Proof of rehabilitation establishes grounds to waive the regulation. Sanders, supra, 131 N.J. Super. at 98. The standards set forth in the Rehabilitated Convicted Offenders Act provide guidance in assessing whether the proofs are sufficient to justify a waiver of a disqualifying condition. See N.J.S.A. 2A:168A-1 to -3. As a matter of policy, “it is in the public interest to assist the rehabilitation of convicted offenders by removing impediments and restrictions upon their ability to obtain employment or to participate in vocational or educational rehabilitation programs based solely on the existence of a criminal record.” N.J.S.A. 2A:168A-1.

Various factors are enumerated in N.J.S.A. 2A:168A-2 to determine whether a conviction for a crime relates adversely to a particular occupation. The factors include: (1) the nature and duties of the occupation; (2) the nature and seriousness of the crime; (3) the circumstances under which the crime occurred; (4) the date of the crime; (5) the age of the person when the crime was committed; (6) whether the crime was an isolated or repeated incident; (7) social conditions which may have contributed to the crime; and (8) any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, or the recommendation of persons who have or have had the person under their supervision.

I **CONCLUDE** that Singleton should be deemed to have demonstrated significant rehabilitation and other mitigating factors in support of retaining his commercial passenger endorsement including, but not limited to, his currently clean abstract and the fact that he has been financially supporting his family with his passenger endorsement. Furthermore, he is entirely compliant with the requirements of Drug Court, has the support of his employer, and has demonstrated sincere and serious commitment to the community and his own continued progress. I **CONCLUDE** that the public is not at risk

as a result of the passenger endorsement of Singleton and that he is deserving of a waiver of his past transgressions so that his future can continue to grow in a positive direction.

**ORDER**

It is **ORDERED** that the Scheduled Suspension Notice issued against the passenger endorsement on respondent Anthony J. Singleton Commercial Driver License be and hereby is **REVERSED**.

I hereby **FILE** my initial decision with the **CHIEF ADMINISTRATOR OF THE MOTOR VEHICLE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CHIEF ADMINISTRATOR OF THE MOTOR VEHICLE COMMISSION**, who by law is authorized to make a final decision in this matter. If the Chief Administrator of the Motor Vehicle Commission does not adopt, modify or reject this decision within forty-five 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.

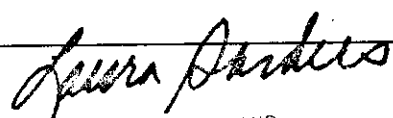
Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **CHIEF ADMINISTRATOR OF THE MOTOR VEHICLE COMMISSION, 225 East State Street, PO Box 160, Trenton, New Jersey 08666-0160**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

March 31, 2015

DATE

  
GAIL M. COOKSON, ALJ

Date Received at Agency:

  
DIRECTOR AND  
CHIEF ADMINISTRATIVE LAW JUDGE

Date Mailed to Parties:  
id

APR - 1 2015

**APPENDIX**

**LIST OF WITNESSES**

**For Petitioner:**

Anthony J. Singleton

**For Respondent:**

None.

**LIST OF EXHIBITS IN EVIDENCE**

**For Petitioner:**

P-1 Packet of Documents from Agency, inclusive of Respondent's Proof of Rehabilitation and Support Letters

**For Respondent:**

R-1 Certificate of Completion of Essex Vicinage Drug Court Phase II, dated December 18, 2014



*State of New Jersey*  
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**A copy of the administrative law  
judge's decision is enclosed.**

**This decision was mailed to the parties  
on APR - 1 2015**