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STATE OF NEW JERSEY

In the Matter of Erik Beauchamp,
Sheriff's Officer (S9999R),
Camden County

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-3255

List Removal Appeal

ISSUED: APR 07 2017 (JET)

Erik Beauchamp, represented by Matthew R. Dempsky, Esq., appeals the removal of his name from the Sheriff's Officer (S9999R), Camden County, eligible list due to an unsatisfactory background report.

The appellant took the open competitive examination for Sheriff's Officer (S9999R), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on August 13, 2015. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis of an unsatisfactory background report. Specifically, the appointing authority indicated that the appellant's driver's license was suspended on nine occasions from September 2001 through February 2007. It also indicated that the appellant was charged with issuing a bad check in the amount of \$217.07 in violation of *N.J.S.A. 2C:21-5B*. In support, the appointing authority provided the appellant's driving abstract, and a report from the New Jersey Automated Complaint System indicating that, on July 27, 2002, the appellant was charged with unlawfully issuing a bad check. Further, the appointing authority indicated that, in response to question 5 on page 20 of the employment application, the appellant failed to list that he was arrested in Deptford Township. The appointing authority also indicates that, in response to question 3 on page 24 of the employment application, the appellant did not list that his driver's license was suspended on nine occasions. Moreover, the appointing authority provided a report dated September 29, 2015 from the Camden County College Police Academy. The report stated, among other things, that the appellant made inappropriate comments to his wife and did not let her leave the house.

On appeal, the appellant asserts that his driving infractions do not adversely relate to the position sought or his ability to serve in the position. The appellant explains that, although the recent infractions listed on his driving abstract are troublesome, such information does not conclusively establish that he may be inclined to commit similar violations in the future. The appellant avers that he has not been involved with any other driving infractions since September 2005. He adds some of the driving violations are more than ten years old, and as such, do not negatively reflect on his recent character. The appellant states that his record shows that he has endeavored to improve his driving record. Additionally, the appellant maintains that he has never been arrested and was previously unaware of the charges against him.¹ The appellant adds that the complaint should not now be considered since it was dismissed. Moreover, the appellant asserts that the report from the Camden County Police Academy, alleging statements made by his wife, has not been substantiated in any legal forum. As such, the report should not be considered.

Although provided with the opportunity, the appointing authority did not provide any additional arguments for the Civil Service Commission to review in this case.

It is noted that the appellant's driving record indicates that he was charged with failure to observe traffic signal on September 1, 2001, unsafe operation of a motor vehicle on January 25, 2002, speeding on July 28, 2002, unsafe operation of a motor vehicle on September 12, 2002, improper display or fictitious plates on May 26, 2003, obstructing passage of other vehicles on July 17, 2003, careless driving on August 23, 2003, persistent violations on December 16, 2003, nonpayment of surcharge on March 14, 2004, persistent violations on July 15, 2004, improper display or fictitious plates on October 15, 2004, unsafe operation of a motor vehicle on October 15, 2004, and improper display or fictitious plates on December 10, 2004. Additionally, he received violations for using a hand held cellular device while driving on May 17, 2005, reckless driving on September 25, 2005, failure to wear a seatbelt on July 12, 2007, and obstructing passage of other vehicles on February 11 2008.

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 Civil Service Commission to remove 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.

¹ The appellant indicates that the complaint summary pertaining to the charges was amended regarding the alleged issuance of a bad check in 2003.

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); *In the Matter of Yolanda Colson, Correction Officer Recruit (S9999A), Department of Corrections*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003).

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 Commission to remove an individual from an eligible 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:4-6.3(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 this matter, the appellant's ability to drive a vehicle in a safe manner is not the main issue in determining whether or not he should remain eligible to be a law enforcement officer. The appellant's driving record indicates that his driver's license was suspended on nine occasions. His driving record also indicates numerous violations of the motor vehicle laws of New Jersey. In that regard, his complete driving record is considered for this matter. Furthermore, the last suspension occurred less than 10 years before he applied for the subject examination. Although the appellant states that he has not been involved with any other moving violations since 2005, it cannot be ignored that the last time his license was suspended was in March 2007. The driving abstract also indicates several entries for non-payment of insurance surcharges. While some of the incidents happened several years ago, it is clear that the violations were not limited to just one isolated incident. The public expects Sheriff's Officers to present a personal background that exhibits respect for the law and rules. Such infractions show a pattern of disregard for the motor vehicle laws and rules and questionable judgment on the appellant's part. Such qualities are unacceptable for an individual seeking a law enforcement position. Therefore, it is clear from the record that the appellant's driving record reflects on the appellant's character and his suitability for the position at issue.

It is clear that the appellant did not properly complete the employment application, as he failed to list that he was charged with issuing a bad check in 2002. In this regard, in response to question 5 on page 20 of the employment application, "have you ever been charged or arrested, indicted or convicted for any violation of the criminal law," the appellant answered "DNA." It must be

emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Sheriff's Officer, to ensure that his employment application is a complete and accurate depiction of his history. In this regard, the Appellate Division of the New Jersey Superior Court in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on falsification of his employment application and noted that the primary inquiry in such a case 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. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. See *In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

In this case, the appellant's omissions are sufficient cause to remove his name from the eligible list. The type of omissions presented are clearly significant and cannot be condoned as such information is crucial in an appointing authority's assessment of a candidate's suitability for the position. Further, the documentation concerning the disposition of these charges on appeal does not cure his intentional omission of these items from his employment application. It is clear that the appellant did not properly provide information in response to the questions on the employment application. The information which the appellant failed to disclose is considered material and should have been accurately indicated on his employment application. The appellant's failure to disclose the information is indicative of his questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Sheriff's Officer. Sheriff's Officers, like municipal 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). See also *In re Phillips*, 117 N.J. 567 (1990).

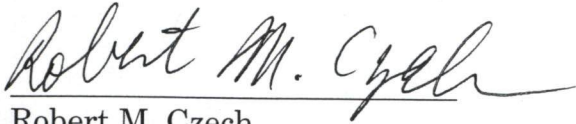
Accordingly, given the position at issue and in consideration of the totality of the evidence in the record, the appointing authority has presented a sufficient basis to remove the appellant's name from the eligible list for Sheriff's Officer (S9999R), Camden County.

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 5th DAY OF APRIL, 2017



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