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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Brittany Hunt,
County Correction Officer (S9999R),
Passaic County Sheriff's Office

List Removal Appeal

CSC Docket No. 2017-1073

ISSUED: MAY 08 2017 (HS)

Brittany Hunt appeals the removal of her name from the eligible list for County Correction Officer (S9999R), Passaic County Sheriff's Office on the basis of an unsatisfactory background report.

The appellant, a non-veteran, took and passed the open competitive examination for County Correction Officer (S9999R), which had a closing date of September 4, 2013. The resulting eligible list promulgated on May 2, 2014 and expired on March 22, 2017. The appellant's name was certified to the appointing authority on January 7, 2015. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the bases of unsatisfactory criminal and driving records. Specifically, the appointing authority asserted that the appellant was charged with theft in violation of *N.J.S.A. 2C:20-3A* in 2007; shoplifting in violation of *N.J.S.A. 2C:20-11B(2)* in 2008; and assault in violation of *N.J.S.A. 2C:12-1A(1)* twice in 2009. The appellant pled guilty to the theft and shoplifting charges, but the assault charges were dismissed. Subsequently, the appellant had her criminal record expunged.

In addition, the appellant's driver abstract indicated that the appellant's license was suspended between the following dates: January 29, 2015 and March 10, 2015; March 13, 2013 and April 2, 2013; September 11, 2011 and May 11, 2012; July 22, 2009 and June 1, 2011; April 8, 2008 and May 24, 2008; and August 28, 2007 and February 26, 2008. These suspensions stemmed primarily from the failure to pay parking tickets and insurance surcharges. The abstract also indicated three violations for driving while suspended dated March 29, 2011, April

18, 2008 and January 23, 2008, respectively, and one violation for unsafe operation of a motor vehicle dated February 7, 2007.

On appeal to the Civil Service Commission (Commission), the appellant states that she takes full responsibility for the theft and shoplifting charges. In the case of the assault charges, she maintains that she never assaulted the complainants, who never appeared in court. The appellant states that as a young adult who had just graduated from high school, she did not understand the importance of maintaining a clean driving record, watching the company she kept and staying away from trouble. She is now employed as a Public Safety Telecommunicator with the Paterson Police Department, where she has worked the second shift for the past four years. The appellant has certifications in answering 911 emergency calls, Emergency Medical Dispatch and Nurse Aid training. The appellant further states that she also works directly with women born with developmental disabilities, will soon earn an Associate's degree in Criminal Justice, and is training to become an Emergency Medical Technician. She requests an opportunity to work in the law enforcement field. In support, she submits a recommendation letter from her supervisor with the Paterson Police Department, her certifications and commendations for community service.

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.

The presentation to an appointing authority of a pardon or expungement shall prohibit an appointing authority from rejecting an eligible based on such criminal conviction, except for law enforcement, correction officer, juvenile detention officer, firefighter or judiciary titles and other titles as the Chairperson of the Commission or designee may determine. Additionally, pursuant to *N.J.S.A. 11A:4-10*, an appointing authority may only question an eligible for a law enforcement, firefighter or correction officer title as to any arrest. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate's removal from a Police Officer eligible list to consider whether the candidate's arrest adversely related to the employment sought based on the criteria enumerated in *N.J.S.A.*

11A:4-11. See *Tharpe v. City of Newark Police Department*, 261 N.J. Super. 401 (App. Div. 1992).

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 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. 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). 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 her name from an eligible list was in error.

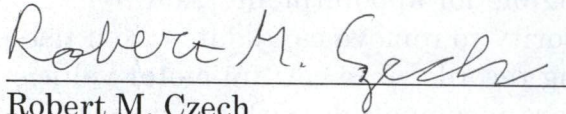
A review of the record in this case indicates that the appellant's driving record reflects several recent license suspensions, the last of which occurred during the life of the eligible list. As such, the appellant's record revealed a persistent disregard for the motor vehicle laws, behavior that is incompatible with the duties of a law enforcement officer. See *Brendan W. Joy v. City of Bayonne Police Department*, *supra*. Such conduct is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of the duties of a County Correction Officer. In this regard, it is recognized that a County Correction Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correction Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and the 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). The public expects prison guards to present a personal background that exhibits respect for the law and rules. Accordingly, the appellant's unsatisfactory driving record provides a sufficient basis to remove the appellant's name from the subject eligible list. As such, it is unnecessary to determine whether her name could be removed on the basis of an unsatisfactory criminal record.

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 3RD DAY OF MAY, 2017



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