



STATE OF NEW JERSEY

In the Matter of Matthew Watson,
Fire Fighter (M1544T), Jersey City

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

CSC Docket No. 2019-66

List Removal Appeal

ISSUED: DECEMBER 21, 2018 (SLK)

Matthew Watson, represented by Randy P. Davenport, Esq., appeals his removal from the eligible lists for Fire Fighter (M1544T), Jersey City on the basis that he falsified his application.

The appellant took the open competitive examination for Fire Fighter (M1544T), which had a closing date of August 31, 2015, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant had an unsatisfactory background report, an unsatisfactory driving record and falsified his application. Specifically, the background report indicated that the appellant was arrested in Woodbridge on October 1, 2017 for disorderly conduct and resisting arrest, which resulted in the police using pepper spray and physical force to subdue him. It is noted that this matter was still pending at the time of the background investigation. Further, the appellant’s driver’s abstract revealed that since 2006, his driver’s license had been suspended nine times for a total suspension time of almost four years. Additionally, he had 21 motor vehicle convictions including a Driving Under the Influence (DUI) arrest in 2014 and he currently has 18 motor vehicle points on his license. Moreover, the appointing authority alleged that the appellant falsified his application by omitting a 2009 domestic violence arrest in Jersey City and omitting 19 motor vehicle violations. Finally, it indicated that the appellant admitted that he used marijuana more than 15 times and had used illegal “mushrooms” and “Ecstasy” in the past.

On appeal, the appellant argues that since there has been no adjudication for the Woodbridge matter, this incident should not remove his name from the list. He explains that during a night out, his friends were attacked and beaten, and as an Emergency Medical Assistant, he was trying to render medical assistance to his friend. However, the appellant asserts that law enforcement officials mistakenly believed that he was trying to attack his friend, which led to their use of pepper spray and physical force. Concerning the omissions on his application, he states he did not have much time to reflect upon his answers to ensure that his application was as complete and accurate as possible because he was leaving the country in a few days. The appellant indicates that the appointing authority's representative advised him that he should just fill out the application to the best of his ability within the prescribed time frame, which he did. He asserts that he was not trying to conceal his driving history as he provided his abstract with his application. Additionally, while the appellant acknowledges that he does have 18 points on his driver's abstract, he highlights that he was last assessed points in May 2014 and then previously in November 2012. Further, he noted that in April 2017, he received a three-point safe driving credit. Moreover, the appellant presents that he has worked as a valet since July 2014 and he submits a letter from the President of the company where he works who indicates that the appellant has been accident free as a valet. Finally, the appellant admits that he used marijuana in 2011 at age 21 or 22 and used mushrooms in 2007 at age 17 or 18. He explains that most of his drug use was experimental/recreational to help him cope with pain from leg injuries which ruined his National Football League career prospects.

In reply, the appointing authority, represented by James B. Johnston, Assistant Corporation Counsel, asserts that the appellant's behavior that led to his arrests reflects poorly on his ability to handle the stress and obligations associated with being a Fire Fighter. It highlights that the appellant has been arrested for harassment, domestic violence, and resisting arrest. Additionally, he has received numerous motor vehicle violations including improper display/fictitious and operating under the influence of alcohol. It emphasizes statutes and case law that support a Fire Department's right to remove an eligible from a list for an arrest that adversely relates to the nature of firefighting even when unsupported by a conviction. The appointing authority specifically finds that the appellant's 2009 and 2017 arrests, which both involved clashes with law enforcement, troubling as these incidents demonstrate his inability to resolve conflicts with the police and others. It argues that the appellant's attempt to explain his 2017 arrest is not credible based on his 2009 confrontation with police. Further, the appellant acknowledged that he used illegal drugs which is another indicator of his lack of respect for the law. Similarly, his unsafe driving record also exhibits a lack of respect for the law. Additionally, while the appellant states that he omitted his 2009 arrest and his 19 motor vehicle violations on his application because he did not have time to reflect on the accuracy of his application since he was leaving the country for a few days, this

excuse does evidence that he has the ability to follow orders, which is critical for a position that involves saving lives and property.

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 (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.

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 eligible's name from an employment 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 the instant matter, the appointing authority had valid reasons for removing the appellant's name from the list. Concerning the Woodbridge incident, the background report indicates that these charges were pending at the time it made its decision to remove his name from the list. In other words, the appellant's claims regarding this incident are of no consequence as the appointing authority had a valid reason to remove his name based on the information that was known to it at the time it made its decision. *See In the Matter of Paul Caldwell* (CSC, decided July 18, 2018). Further, even if the Commission accepts the appellant's argument that he did not falsify his driving record because he submitted his driver's abstract¹, the appellant acknowledges that he did omit the domestic violence charge. While the appellant claims that he did not have sufficient time to completely and accurately fill out his application and was advised that he should just complete it to the best of his ability within the prescribed time frame, it is the candidate who is responsible for the accuracy of his or her application and any failure to include information is at the candidate's peril. *See In the Matter of Harry Hunter* (MSB, decided December 1, 2004) and *In the Matter of Jeffrey Braasch* (MSB, decided December 1, 2004). Moreover, 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 his falsification of his employment application and noted that the primary inquiry in such a case is whether the

¹ It is noted that the record is unclear if the appellant submitted his complete driving record which contained all of his motor vehicle convictions.

candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. In that respect, 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. *See N.J.S.A 40A:14-9*, which provides, in pertinent part, that except as otherwise provided by law, no person shall be appointed as a member of the paid or as a paid member of a part-paid fire department and force unless he is of good moral character. The appellant's failure to and/or selectively provide information is indicative of the appellant's lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Fire Fighter. *See In the Matter of Scott DeCarlo* (CSC, decided October 18, 2017). At minimum, the appointing authority needed this information to have a complete understanding of his background in order to properly evaluate his candidacy. *See In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017).

Moreover, the appellant's driver's abstract revealed that since 2006, his driver's license had been suspended nine times for a total suspension time of almost four years. Additionally, he had 21 motor vehicle violations including a DUI arrest in 2014 and he currently has 18 motor vehicle points on his license. The appellant has presented no argument that a driver's license is not essential for this position and the appellant's numerous motor vehicle violations is relevant to the position sought, as such conduct is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of duties of a Fire Fighter. *See In the Matter of William Bryant, Jr.* (MSB, decided July 25, 2000). Firefighters are not only entrusted with the duty to fight fire; they must also be able to work with the general public and other municipal employees, especially police officers, because the police department responds to every emergency fire call. Any conduct jeopardizing an excellent working relationship places at risk the citizens of the municipality as well as the men and women of those departments who place their lives on the line on a daily basis. An almost symbiotic relationship exists between the fire and police departments at a fire. *See Karins v. City of Atlantic City*, 152 N.J. 532, 552 (1998). Finally, as the Commission has found sufficient cause to remove the appellant from the list based on the above, it need not decide whether the appellant's past drug use is further cause to remove the appellant's name from the list.

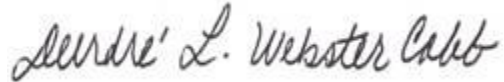
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Fire Fighter (M1544T), Jersey City eligible list.

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 19th DAY OF DECEMBER, 2018



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