



February 2012 and June 2012; speeding in April 2012 and May 2015; careless driving in May 2012; failure to wear a seatbelt in May 2012; and driving without a license, registration or insurance identification in his possession in June 2012.

On appeal to the Civil Service Commission (Commission), the appellant expresses regret for his past actions, but he maintains that the totality of his record demonstrates that he has become a responsible adult. He acknowledges that his juvenile record included two criminal trespassing incidents at age 16 where he entered his school after hours. The appellant maintains that the nature of these incidents was relatively minor, as he was not involved in any property damage,<sup>1</sup> theft or harm to other individuals. He submits that after the second criminal trespassing charge he entered a program which included youth group meetings and community service. He states that since the time of these incidents he has earned an Associate's degree, maintained gainful employment and a long-term relationship, and has taken responsibility for his grandmother's care. Furthermore, he contends that his case is similar to *In the Matter of Allegra Callahan* (CSC, decided October 19, 2016) (*Callahan*), in which the Commission restored an individual who had been charged with criminal trespassing as a juvenile to the Correction Officer Recruit eligible list.<sup>2</sup> With regard to his driving record, the appellant states, in relevant part, that he received the February 2012 citation for maintenance of lamps when driving a family member's vehicle. He states that he was unaware that a light above the vehicle's license plate was not in good working order at the time of that infraction. He further states that he received the June 2012 citations because he mistakenly believed that the family member who owned the car had repaired the lamp after the February 2012 citation and he inadvertently left the wallet containing his driver's license at home. He submits that since purchasing his own vehicle in 2014, he has had only one violation: a 2015 speeding ticket. Finally, he emphasizes that he wishes to follow in his father's footsteps and become a Correctional Police Officer.

In response, the appointing authority states that the appellant's driving and criminal records do not demonstrate respect for the law and the use of good judgment that is expected of Correctional Police Officers and essential to effective day-to-day operations of a prison system. Therefore, it stands by the removal of the appellant from the subject eligible lists.

## 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

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<sup>1</sup> However, the appellant states that in the second incident, a friend damaged another individual's guitar.

<sup>2</sup> Pursuant to P.L. 2017, c.293, the title of Correction Officer Recruit was changed to Correctional Police Officer, effective May 1, 2018.

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.

Further, it is well established that municipal police departments may maintain records pertaining to juvenile arrests, provided that they are available only to other law enforcement and related agencies, because such records are necessary to the proper and effective functioning of a police department. *Dugan v. Police Department, City of Camden*, 112 N.J. Super. 482 (App. Div. 1970), cert. denied, 58 N.J. 436 (1971). N.J.S.A. 2A:4A-48 provides that a conviction for juvenile delinquency does not give rise to any disability or legal disadvantage that a conviction of a “crime” engenders. However, the Commission can consider the circumstances surrounding an eligible’s arrests, the fact that the eligible was involved in such activities and whether they reflect upon the eligible’s character and the eligible’s ability to perform the duties of the position at issue. See *In the Matter of Tracey Shimonis*, Docket No. A-3963-01T3 (App. Div. October 9, 2003). Thus, the appellant’s juvenile arrest records were properly disclosed to the appointing authority, a law enforcement agency, when requested for purposes of making a hiring decision.

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. 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 totality of the circumstances supports the appointing authority’s removal of the appellant’s name from the subject eligible list. The appellant was adjudicated delinquent on two counts of criminal trespassing in 2010 and his driving record shows eight infractions, including a May 2015 citation for speeding. The appellant contends that his restoration to the subject eligible list is warranted because, like *Callahan, supra*, he presents evidence of rehabilitation since he was found guilty of criminal trespassing as a juvenile. However, the Commission notes that Callahan’s record did not indicate any other problems in the six years that elapsed between the incidents at issue and the closing date of the

eligible list involved in that matter. Conversely, in the instant matter, the appellant received eight summonses for moving violations between 2012 and 2015. The Commission notes that a Correctional Police Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correctional Police 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). The public expects Correctional Police Officers to present a personal background that exhibits respect for the law and rules. The Commission observes that all but one of the appellant's driving infractions occurred in 2012, at age 18 and it recognizes that the appellant has demonstrated significant personal achievements since that time. However, his record also evidences a May 2015 speeding citation.

Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing him from the Correctional Police Officer (S9999U & S9988U) eligible lists. The Commission notes, however, that with the passage of time, and absent any further adverse incidents, the appellant's background as presented in this matter will be insufficient to remove his name from future similar lists.

### 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 23<sup>RD</sup> DAY OF OCTOBER, 2019



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