



STATE OF NEW JERSEY

In the Matter of Anthony Socia, III,
Police Officer (S9999U), Holmdel

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

CSC Docket No. 2019-1234

List Removal Appeal

ISSUED: APRIL 26, 2019

(SLK)

Anthony Socia, III, represented by Michael L. Prigoff, Esq., appeals his removal from the eligible list for Police Officer (S9999U), Holmdel on the basis that he falsified his application.

The appellant took the open competitive examination for Police Officer (S9999U), which had an August 31, 2016 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant failed to reveal that his license was suspended in New York and the real reason for the suspension, failed to reveal a dangerous driving summons in New York, failed to disclose a summons from New York City for fare evasion in September 2013, and failed to request his full driver's abstract and reveal his entire motor vehicle history, which included motor vehicle violations dating back to 2005.

On appeal, the appellant indicates that in April 2015, he received summonses in New York for speeding, unsafe lane change, and dangerous driving. Further, he was found guilty of speeding and unsafe lane change, but not guilty for dangerous driving. The appellant indicates that he was ordered to pay a fine and his driving privileges in New York were suspended for 31 days. The appellant highlights that, although technically his driver's license was not suspended, but only his driving privileges in New York were suspended, he indicated on page 28 of his application

that his driver's license was suspended in New York and, therefore, he did reveal this information. Moreover, he did not list the dangerous driving summons because he believed it was merely a summary of the other two charges and was duplicative, which is why he was acquitted of this charge and he did not recall it as a separate charge. At most, he argues that this was an inadvertent omission and not falsification.

Concerning the 2013 New York City subway fare evasion charges, the appellant indicates that he forgot about it as it did not appear on his multi-state criminal background check and the incident was five years ago. He explains that, although his Metrocard had adequate funds, it would not register when he swiped it. As the station was crowded from fans leaving a baseball game from Yankee Stadium, the appellant asserts he was unable to get to the service desk to resolve the issue and he jumped the turnstile, which led to the summons and he paid the fine.

Regarding his failure to request and reveal his entire motor vehicle history, the appellant presents that he did request a full driver's abstract from the Motor Vehicle Commission. However, as the appointing authority only provided him five days to complete his application, he states that there was insufficient time for him to receive the full abstract prior to submitting his application. The appellant indicates that he informed the investigator of the situation during his interview. He argues that since the appointing authority had access to his full abstract and it would be unfair to ask him to recall his entire 13-year driving history, his failure to provide his entire driving history should not be grounds to remove his name from the list.

In response, the appointing authority, represented by Robert J. Merryman, Esq., submits the appellant's employment application and the documentation that demonstrates the appellant's violations as outlined above.

CONCLUSION

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 removal of 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:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the removal of 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 this matter, the appointing authority had valid reasons for removing the appellant's name from the list for falsification. Specifically, the appellant did not present his April 2015 dangerous driving summons, his 2013 fare evasion charge, the proper reason that his driving privileges were suspended in New York, and the entirety of his driving history as far back as 2005. While the appellant explains that he thought that the driving dangerous charge was duplicative, he forgot the 2013 fare evasion charge as it was not on his multi-state background check, and he did not have time to receive his full driver's abstract prior to his interview, the appellant is responsible for the accuracy of his application. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004) and *In the Matter of Jeffrey Braasch* (MSB, decided December 1, 2004). Further, there is nothing in the record that indicates that once the appellant received his complete driver's abstract that he reached out to the appointing authority to update his driving history and it is irrelevant that the appointing authority could access his full driving record as it was his responsibility to provide it. Moreover, the appellant indicated on his application that his driving privileges were suspended in New York for unpaid tickets, while his response on appeal states that his driving privileges were suspended due to being found guilty on two charges from the April 2015 incident.

Additionally, 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 candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. Therefore, even if the appellant did not intend to deceive the appointing authority, as the appellant had numerous motor vehicle infractions dating as far back as 2005, at minimum, it needed to know this information so that it could properly evaluate his candidacy. See *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). In this regard, it is recognized that a Police Officer is a law enforcement employee who must enforce and promote adherence within to the law. Police Officers hold highly visible and sensitive positions within the community and that the standard for an applicant includes good character and an image of the utmost confidence and trust. It must be recognized that a Police Officer is a special kind of employee. His primary duty is to enforce and uphold the law. He carries a service revolver on his person and is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. He represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public. See *Moorestown v. Armstrong*, 89 N.J. Super. 560, 566 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966). See also *In re Phillips*, 117 N.J. 567 (1990). Similarly, the Civil Service Commission notes that the appellant could also be removed for an

unsatisfactory driving record. 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).

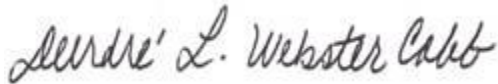
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999U), Holmdel eligible list.

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 24th DAY OF APRIL, 2019



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