



**STATE OF NEW JERSEY**

In the Matter of Robert White,  
Human Services Specialist 1  
(C0129W), Atlantic County

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

CSC Docket No. 2019-1388

List Removal Appeal

**ISSUED: APRIL 26, 2019 (SLK)**

Robert White appeals his removal from the eligible list for Human Services Specialist 1 (C0129W), Atlantic County based on an unsatisfactory background report.

The appellant took the open competitive examination for Human Services Specialist 1 (C0129W), which had a February 21, 2018 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 had an unsatisfactory background report.

On appeal, the appellant presents that he was initially offered a position by the appointing authority as a Human Services Specialist 1 (HSS1) in 2016 from a prior list before it removed his name for falsification.<sup>1</sup> He states that the letter from the appointing authority rescinding its offer indicated that he could reapply for the position in six months. The appellant highlights that he was a top ranked candidate on the current list based on his performance on the civil service test and the interview and he fully disclosed his past offenses on his current application. The appellant

<sup>1</sup> The appointing authority’s March 8, 2016 letter to the appellant implies that his name was removed from the HSS1 list based on his failing to disclose all criminal convictions. Agency records indicate that the appointing authority removed the appellant’s name from the HSS1 (C0414T) list on May 24, 2016, based on an unsatisfactory criminal background. Thereafter, in May 2018, the appellant’s name was also removed from the HSS1 (C0735V) list for failure to respond to the certification notice.

questions why the appointing authority, which was aware of his past from his prior application, would encourage him to reapply if it was going to remove his name for a second time due to his past. He presents that his felonies occurred many years ago when he was 18 years old and he asserts that he learned from his past mistakes. Additionally, the appellant acknowledges a 2014 incident where he received probation<sup>2</sup> for a disorderly persons offense for a simple assault charge. He explains that he now knows how to not put himself in such a position and asserts that such an incident will never happen again. The appellant indicates that he is potentially eligible to have his record expunged in March 2019. He argues that he has demonstrated sufficient rehabilitation over the last two years.

In response, the appointing authority submits its background report, the appellant's criminal background check from the State Police, the appellant's initial and revised employment application, and the appellant's employer reference responses that it received to support its request to remove his name from the list for an unsatisfactory background. It presents that the appellant's prior convictions for theft, receipt of stolen property, and wrongful impersonation are concerning given the nature of the work he would perform. Specifically, HSS1s must view an individual's most private information, and at any time, can take advantage of that individual for personal gain as an HSS1 is in the unique position of knowing when an individual's circumstances change, family size changes, and the corresponding monetary position changes. The appointing authority explains that the appellant's wrongful impersonation charge, in conjunction with the theft charges, is concerning as access to this kind of information has been exploited in the past and it needs to be vigilant in its efforts to hire the most qualified persons for these positions. Further, the appointing authority finds the appellant's simple assault conviction alarming as HSS1s deal with clientele that often becomes irate and aggressive when denied eligibility for benefits. Additionally, it indicates that it has concerns about the appellant's employment history as his employer references either did not respond, stated he was not employed there, or indicated that he would not be re-employed for cause.

## 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

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<sup>2</sup> The criminal background check from the State Police indicates that, in addition to probation, the appellant was sentenced to 17 days in jail for the simple assault charge.

- 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 Civil Service Commission (Commission) or designee may determine.

*N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)7* allows the Commission to remove an individual from an eligible list who has a prior employment history which relates adversely to the position sought.

*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)* 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. Specifically, based on the nature of an HSS1's work which involves access to confidential client information that provides opportunity for fraud and the potential for confrontation with irate clients, the appellant's background, which involves convictions for theft, wrongful impersonation and simple assault, provides a basis to remove his name from the list. Further, while the appellant may have been potentially eligible to receive an expungement in March 2019, as the simple assault conviction was based on an incident in December 2014, only approximately three years prior to the subject examination February 21, 2018 closing date, there was insufficient time for the appellant to demonstrate rehabilitation. Additionally, the appellant's inability to provide sufficient favorable employer references is further grounds for removal. Finally, the fact that the appointing authority invited the appellant to reapply for a position in the subject title after a removal from a previous examination does not preclude the appointing authority from removing the appellant from the subject examination after a current check and review of his background.

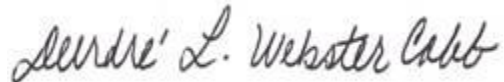
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the HSS1 (C0129W), Atlantic County eligible list.

**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 24<sup>th</sup> DAY OF APRIL, 2019



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