

STATE OF NEW JERSEY FINAL ADMINISTRATIVE ACTION : OF THE : CIVIL SERVICE COMMISSION : In the Matter of James Williams, : County Correction Officer (S9999U), : Union County : List Removal Appeal : : CSC Docket No. 2020-773 : : **ISSUED:** (HS)

James Williams appeals the removal of his name from the eligible list for County Correction Officer (S9999U), Union County on the basis of an unsatisfactory driving record.

The appellant, a non-veteran, took and passed the open-competitive examination for County Correction Officer (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated on March 29, 2017 and was scheduled to expire on March 30, 2020.¹ The appointing authority requested the removal of the appellant's name from the list due to an unsatisfactory driving record. Specifically, the appellant's certified driver abstract indicated that his license had been suspended between June 4, 2004 and June 25, 2005 and between November 27, 2005 and June 23, 2006. Also, documentation from the New Jersey Automated Traffic System (ATS) indicated that the appellant failed to appear in court on July 16, 2013; September 27, 2013; April 16, 2014; July 19, 2016; March 31, 2017; April 4, 2017; November 9, 2017; and August 14, 2018.²

On appeal to the Civil Service Commission (Commission), the appellant states that he has been a truck driver since 2007 and maintains he has a good driving record. In support, the appellant submits copies of his driver's license and five-year driver abstract.<sup>3</sup>

<sup>&</sup>lt;sup>1</sup> The eligible list was extended until March 30, 2021 or the new list issues, whichever occurs first.

<sup>&</sup>lt;sup>2</sup> All of the ATS documentation indicates the appellant as the defendant, the appellant's address and the appellant's driver's license number.

<sup>&</sup>lt;sup>3</sup> The abstract indicates a violation for failure to wear a seat belt on February 27, 2017.

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In response, the appointing authority submitted copies of the above-described documentation in support of the removal of the appellant's name from the eligible list.

In reply, the appellant states that at a point in time, he had two vehicles registered in his name. He asserts that all but the April 4, 2017 failure to appear pertained to his wife's tickets. The April 4, 2017 failure to appear, the appellant concedes, pertained to his failure to wear a seat belt violation.

## 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 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 his name from an eligible list was in error.

At the outset, the Commission must emphasize that all of the ATS documentation in the record clearly references the appellant, and the appellant offers no evidence to support his assertion that most of the failures to appear in court concerned his wife's tickets. As such, the Commission cannot credit that base assertion. A review of the record, then, indicates that the appointing authority's request to remove the appellant's name from the subject eligible list was justified. The appellant's ability to drive a vehicle in a safe manner is not the main issue. Rather, the appellant's driving record reflects two license suspensions, a recent violation for failure to wear a seat belt, and several recent failures to appear in court. These reveal a persistent disregard for the motor vehicle laws, behavior that is incompatible with the duties of a law enforcement officer. See Joy, supra. In fact, the seat belt violation occurred after the examination closing date and the last four failures to appear occurred during the life of the eligible list. 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. 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. County 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, there is a sufficient basis to remove the appellant's name from the subject 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 20<sup>TH</sup> DAY OF MAY, 2020

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Deirdre L. Webster Cobb

Chairperson

Civil Service Commission

Inquiries and

Correspondence

**Christopher Myers** 

Director

Division of Appeals and Regulatory Affairs

Civil Service Commission Written Record Appeals Unit

P.O. Box 312

Trenton, New Jersey 08625-0312

c: James Williams Laura M. Scutari Kelly Glenn