



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Lisa Camacho, Police
Officer (S9999R), Union City

List Removal Appeal

CSC Docket No. 2016-1598

ISSUED: NOV 16 2016 (HS)

Lisa Camacho appeals the attached decision of the Division of Agency Services (Agency Services), which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the Police Officer (S9999R), Union City eligible list on the basis of an unsatisfactory background report.

The appellant, a non-veteran, took and passed the open competitive examination for Police Officer (S9999R), which had a closing date of September 2013. The resulting eligible list promulgated on May 2, 2014 and expires on May 1, 2017.¹ The appellant's name was certified to the appointing authority on August 4, 2014. In disposing of the certification, the appointing authority requested the removal of the appellant's name based on an unsatisfactory background report. Specifically, the appointing authority provided court disposition information indicating that the appellant had been arrested for aggravated assault and possession of a weapon in June 2007 and for simple assault and aggravated assault with a weapon in December 2007. Both arrests were classified as domestic violence arrests. The June 2007 charges were downgraded to charges of simple assault and disorderly conduct and dismissed in January 2011. The December 2007 charges were downgraded to a violation of a municipal ordinance for which the appellant was assessed \$255. Upon her appeal to Agency Services, it found that the appointing authority had sufficiently documented and supported its request to remove the appellant's name from the subject eligible list.

¹ The expiration date of the subject eligible list was extended one year, to May 1, 2017.

On appeal to the Civil Service Commission (Commission), the appellant states that in 2007, she was in an abusive relationship with the father of her two daughters. Although she now understands that she should have left when the abuse escalated, she was young and naive at the time.² The appellant admits that she was “wrong for defending [herself] with such aggression” and she claims she should have “ran out.” Instead, she fought back, was arrested and was incarcerated for three months. The appellant states that she subsequently devoted herself to making better choices for herself and her daughters and to making a difference in the lives of others. She states that this included her certification as an Emergency Medical Technician (EMT). The appellant contends that the removal of her name from the subject eligible list is a form of “double jeopardy” since she already paid for her offense through her incarceration. Although the appellant understands that seeing “aggravated assault and possession of a weapon” on paper suggests “a dangerous or troubled person,” she submits that she is not such a person and has grown.

In response, the appointing authority stands with its original decision to request the removal of the appellant’s name from the subject eligible list and maintains that the appellant’s arrest record shows a pattern of questionable judgment.

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 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 Commission or designee may determine. Additionally, pursuant to *N.J.S.A. 11A:4-10*, an appointing authority may only question an eligible for a law enforcement, firefighter or correction officer title as to any arrest. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate’s removal from a

² The record reflects that the appellant was born in 1984.

Police Officer eligible list to consider whether the candidate's arrest adversely related to the employment sought based on the criteria enumerated in *N.J.S.A. 11A:4-11*. See *Tharpe v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992).

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 her name from an eligible list was in error.

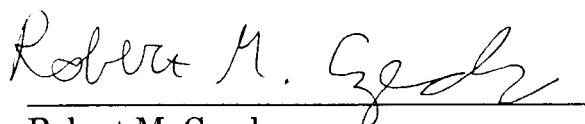
In this matter, a review of the record indicates that the appointing authority's decision to request the removal of the appellant's name from the subject eligible list based on her arrest history was reasonable. While the appellant represents that since her arrests, she has experienced personal growth that has included certification as an EMT, the seriousness of her arrest history cannot be ignored as both incidents involved an arrest for aggravated assault. While the appellant submits that she was responding to abuse, she also acknowledges that she was "wrong for defending [herself] with such aggression." Moreover, the appellant was an adult at the time of the incidents at issue. In addition, this case does not present a matter of an isolated incident as the appellant was arrested twice and both arrests were classified as domestic violence arrests. In this regard, the appellant was arrested for aggravated assault and possession of a weapon in June 2007, and the charges were downgraded to simple assault and disorderly conduct and dismissed in January 2011. The appellant was also arrested for simple assault and aggravated assault with a weapon in December 2007, and the charges were downgraded to a violation of a municipal ordinance for which the appellant was assessed \$255. As the second incident occurred less than six years before the closing date for the subject examination, the appellant's history of arrests was not so remote in time as to render the appointing authority's request unjustified. The Commission further notes that a Police Officer is a law enforcement employee who must help keep order and promote adherence to the law. 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 Police Officers to present a personal background that exhibits respect for the law and rules. Therefore, there is a sufficient basis to remove the appellant's name from the 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 10TH DAY OF NOVEMBER, 2016**



**Robert M. Czech
Chairperson
Civil Service Commission**

**Inquiries
and
Correspondence**

**Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
Civil Service Commission
P.O. Box 312
Trenton, New Jersey 08625-0312**

Attachment

- c. Lisa Camacho
- Brian P. Stack
- Kelly Glenn



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AGENCY SERVICES
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

October 19, 2015

Lisa Camacho	Title: Police Officer Jurisdiction: Union City Symbol: S9999R Certification No: OL141015 Certification Date: 08/4/2014
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Initial Determination: Removed – Unsatisfactory Background Record

This is in response to your letter, received by this office on March 18, 2015, regarding your appeal which removed your name from the above eligible list.

The Appointing Authority requested removal of your name in accordance with N.J.A.C. 4A:4-6.1(a)9, which permits the removal of an eligible candidate's name from the eligible list for "Other sufficient reasons". Other sufficient reasons include, but are not limited to, an unsatisfactory background which relates adversely to the title sought. Furthermore, per 4A:4-4.7(a)4(ii), "The presentation of a pardon or an expungement shall prohibit removal from a list, except for law enforcement, correction officer, juvenile detention officer, firefighter or judiciary titles and other titles as the Chairperson of the Civil Service Commission or designee may determine."

In support of its decision, the Appointing Authority provided a narrative and related pages of your Background Report which includes arrests in June 2007 for simple assault and in December 2007 for Aggravated assault and possession of a weapon.

In your letter, you indicate that the incident took place over seven years ago. You state you were never indicted on charges and still paid a debt to society. You believe that your disqualification from the hiring process is a form of double jeopardy. Furthermore, you state that since the 2007 incident, you have grown; you have attended training courses and currently work as a New Jersey State Certified Emergency Medical Technician. You ask that someone interview you or review your résumé before making a decision whether to disqualify you.

Recognizing the nature of the position at issue, the Appointing Authority may consider your background when determining eligibility for the position of Police Officer, a title which holds highly visible and sensitive positions within the community and the standards for an applicant include good character and an image of utmost confidence and trust. Based on the information presented, your background shows a pattern of questionable judgment, and the Appointing Authority made the determination to remove your name based on all of the information discovered while performing your Background Check.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's decision to remove your name has been sustained and the appeal is denied.

In accordance with Merit System Rules, this decision may be appealed to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010 C.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, C. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees.

Address all appeals to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Appeals Record Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Director,



Elliott Cohen
Human Resource Consultant
Local Placement Services

Brian P. Stack - Mayor & Director
Union City Public Safety
3715 Palisade Avenue
Union City, NJ 07087