

B-12



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Christopher  
Kraynanski, Sheriff's Officer  
(S9999R), Essex County

List Removal Appeal

CSC Docket No. 2016-2960

ISSUED: **DEC 09 2016** (HS)

Christopher Kraynanski appeals the removal of his name from the eligible list for Sheriff's Officer (S9999R), Essex County on the basis of an unsatisfactory background report.

The appellant, a non-veteran, took and passed the open competitive examination for Sheriff's Officer (S9999R), which had a closing date of September 4, 2013. The resulting eligible list promulgated on May 2, 2014 and expires on May 1, 2017.<sup>1</sup> The appellant's name was certified to the appointing authority on September 9, 2015. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to an unsatisfactory criminal record and falsification of his preemployment application. Specifically, the appointing authority asserted that the appellant was charged with: aggravated assault upon a teacher in violation of *N.J.S.A. 2C:12-1B(5)(D)* as a juvenile in 2003, for which the appellant was adjudicated delinquent; harassment/any other alarming conduct in violation of *N.J.S.A. 2C:33-4C* as a juvenile in 2003, for which the appellant was adjudicated delinquent; a violation of P.L. 1987, chapter 423 regarding smoking on school grounds as a juvenile in 2004, for which the appellant was found guilty; a violation of a borough ordinance regarding public nuisance in 2005, for which the appellant was found guilty; a violation of a township ordinance regarding the use of recreation areas in 2005, for which the appellant was found guilty; and a violation of a township ordinance regarding a dumpster requirement for debris left onsite overnight in 2011, which was dismissed. With respect to the

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

2005 public nuisance ordinance charge, documentation from the New Jersey Automated Complaint System submitted by the appointing authority indicates that the appellant was originally charged with a violation of *N.J.S.A. 2C:33-2A(1)* on May 28, 2005 and that this offense was amended to a violation of borough ordinance 154-11 concerning public nuisance. In addition, the appointing authority asserted that in response to question 38 on his preemployment application, "Have you ever been arrested or charged with a violation of the disorderly persons act, a city, township or county ordinance, or a misdemeanor in any state?" the appellant failed to list the 2005 public nuisance ordinance charge<sup>2</sup> and the 2011 dumpster requirement ordinance charge. In support, the appointing authority submitted copies of the relevant sections of the appellant's preemployment application and documentation from the New Jersey Automated Complaint System.

On appeal to the Civil Service Commission (Commission), the appellant states that he has already passed two previous background checks for law enforcement positions with Essex County and has been employed as a County Correction Officer since 2011. He also maintains that no information in his background has changed since 2005.

In response, the appointing authority maintains that the appellant has an unsatisfactory criminal background and falsified his preemployment application by failing to list the 2005 public nuisance ordinance charge involving the Seaside Heights police, and the 2011 dumpster requirement ordinance charge in response to question 38 regarding charges for ordinance violations.

### 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 Commission to remove an eligible's name from an employment list when he 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:4-6.3(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.

*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:

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<sup>2</sup> In response to question 39, "Have you ever been arrested, indicted, or convicted for any violation of the criminal law in New Jersey or any other state?" the appellant indicated a violation of *N.J.S.A. 2C:33-2A(1)* dated May 28, 2005 in Seaside Heights involving the Seaside Heights police and the court disposition that he was guilty of "Municipal Offense 154-1."

- 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 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).

In this matter, the record indicates that the appellant was charged with a violation of a public nuisance ordinance in 2005 and a violation of a dumpster requirement ordinance in 2011. Initially, it is noted that the appointing authority's contention that the appellant falsified his application with respect to the 2005 public nuisance ordinance charge involving the Seaside Heights police is unpersuasive. In this regard, in response to question 39 on the application, "Have you ever been arrested, indicted, or convicted for any violation of the criminal law in New Jersey or any other state?" the appellant indicated a violation of *N.J.S.A. 2C:33-2A(1)* dated May 28, 2005 in Seaside Heights involving the Seaside Heights police and the court disposition that he was guilty of "Municipal Offense 154-1." Documentation from the New Jersey Automated Complaint System indicates that the appellant was originally charged with a violation of *N.J.S.A. 2C:33-2A(1)* on May 28, 2005 and that the offense was amended to a violation of borough ordinance 154-11 concerning public nuisance. Thus, the appellant provided an adequate disclosure of the 2005 public nuisance ordinance charge on his application. Nevertheless, the appointing authority's contention that the appellant falsified his application with respect to the 2011 dumpster requirement ordinance charge is persuasive. In this regard, the application clearly sought disclosure of any charges concerning city, township or county ordinances. There is no indication that the appellant disclosed the 2011 ordinance charge on his application, and he has not explained this omission on appeal.

The Appellate Division 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

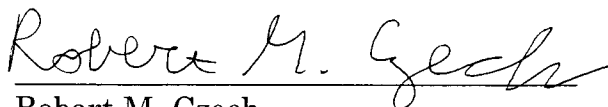
name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. *See also, In the Matter of Harry Hunter* (MSB, decided December 1, 2004) (Police Officer candidate who was required to list all disciplinary actions he was subjected to during military service, regardless of whether he agreed with the action, held accountable for the accuracy of the information submitted and any failure to include information was at his peril). It is the appellant's responsibility to provide full and accurate information to the best of his knowledge, not the appointing authority's responsibility to fill in the missing information. In the instant matter, the information that the appellant failed to disclose should have been accurately indicated on his preemployment application. His failure to disclose this information is indicative of questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Sheriff's Officer. The Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel. The public expects Sheriff's Officers to present a personal background that exhibits respect for the law and rules. In this regard, it is recognized that a Sheriff's Officer is a law enforcement employee who must enforce and promote adherence to the law. Sheriff's 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). Accordingly, the appellant's failure to disclose the entirety of his record provides a sufficient basis to remove his name from the eligible list. It is, therefore, unnecessary to determine whether his name could be removed on the basis of an unsatisfactory criminal record.

### 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 7<sup>TH</sup> DAY OF DECEMBER, 2016



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