



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

In the Matter of Connor Rush, Police Officer (S9999R), Millburn

CSC Docket No. 2017-217

List Removal Appeal

ISSUED: DEC 15 2016 (CSM)

Connor Rush appeals the removal of his name from the eligible list for Police Officer (S9999R), Millburn on the basis of an unsatisfactory background report.

The appellant's name appeared on the subject list that expires on May 1, 2017. On February 25, 2016, the appellant's name was certified (OL160206) in the 6th position. In disposing of the certification, the appointing authority requested the removal of the appellant's name, contending that he had an unsatisfactory background report. Specifically, the appointing authority's background investigation found that the appellant failed to disclose during his interview that he was the subject of an Internal Affairs investigation in his current position as a Sheriff's Officer with Morris County and that his firearm had been taken away pending the results of the investigation. It also found that question 62 on the application asked if he was ever asked to resign from employment, but the Morris County Sheriff's Department asked him to resign or face termination as a result of the internal affairs investigation.

On appeal to the Civil Service Commission (Commission), the appellant states that the internal affairs complaint against him was filed by a fellow recruit at the academy after that person was dismissed from the academy for lying. The appellant claims that he was not suspended or asked to resign and that he has seen "at least one officer have his gun taken away" until a hearing was concluded. Further, he claims that the Morris County Sheriff's Office violated its own standard operating procedures when it gave information about an ongoing investigation and this should not serve as a basis to remove his name from the list.

In response, the appointing authority, represented by Little E. Rau, Esq., states that during the appellant's interview, he failed to disclose that he was the subject of an internal affairs investigation by the Morris County Sheriff's Department and that his firearm was confiscated as a result of the investigation. Specifically, its background investigation revealed that the appellant had been under investigation since November 2015 and that he was served with a Preliminary Notice of Disciplinary Action (PNDA) on March, 18, 2016, eight days before he filed his application on March 26, 2016. Additionally, the appointing authority states that it was proper for Morris County to release the information concerning its internal affairs investigation given that the appellant was interviewing for another law enforcement position.

### 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 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:4-4.7(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:4-6.3(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 the matter at hand, the record evidences that the appellant failed to disclose that he was the subject of an internal affairs investigation with the Morris County Sheriff's Office that resulted in his firearm being taken away. Further, the appellant was served with a PNDA on March 18, 2016, but he filled out his application with the appointing authority on March 26, 2016. Thus, he was clearly aware by that time that disciplinary action was pending against him but he failed to include this information on his application or disclose it during his interview. The information that the appellant failed to disclose is considered material and should have been accurately indicated on his employment application. 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. In this regard, it is recognized that municipal Police Officers hold highly visible and sensitive positions within the

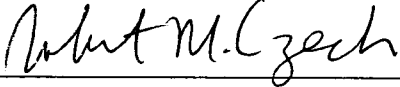
community and the standard for an applicant includes good character and an image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also, In re Phillips*, 117 N.J. 567 (1990). The public expects Police Officers to present a personal background that exhibits respect for the law and rules. The appellant's failure to disclose this information is indicative of the appellant's lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer. While the Commission does not have the authority to determine if Morris County violated its own operating procedures by disclosing the information concerning the appellant's internal affairs investigation, given the nature of the position, providing such information to another law enforcement agency for the purposes of making a hiring decision is clearly necessary for the effective and proper functioning of a police department. Accordingly, it was proper to remove the appellant's name from the 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 7<sup>TH</sup> DAY OF DECEMBER, 2016



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