



STATE OF NEW JERSEY

In the Matter of Paul DeAngelo,
Police Officer (S9999U), Linden

CSC Docket No. 2019-1609

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

List Removal Appeal

ISSUED: MAY 24, 2019 (SLK)

Paul DeAngelo, represented by Keith Hofmann, Esq., appeals the removal of his name from the eligible list for Police Officer (S9999U), Linden, on the basis that he resided outside of the residency scope.

The appellant took the open competitive examination for Police Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant failed to prove that he lived in Linden in violation of its ordinance, which required applicants to be residents of Linden from the August 31, 2016 closing date until the date of appointment. Specifically, a background check indicated that the appellant's Motor Vehicle Services Address Change History indicated that he lived in Clark before changing his address to Linden on June 5, 2017. Additionally, the appellant's insurance cards for his two motor vehicles, which were effective August 31, 2017, indicated that he lived in Clark. Further, in support of the removal, the background report cites *In the Matter of Luke Cerchio* (CSC, decided September 18, 2013) where the Civil Service Commission (Commission) upheld the appointing authority's request to remove an eligible from a Fire Fighter list due to the eligible failing to meet the residency requirement where the appellant argued that he was living in the required city with his brother. However, other evidence strongly inferred that the eligible was living elsewhere as he admitted to having used a residence in a different town for the purposes of auto insurance, presumably because use of that address would yield lower insurance premiums. In this matter, it is noted that the

background report indicates that the appellant's insurance agency advised the appointing authority's investigator that the appellant lived in Linden, but kept his vehicles insured in Clark so that his mail would go there.

On appeal, the appellant indicates that he applied for a position with the Linden Police Department in May 2018 and certifies that he has lived in Linden since May 2016.¹ He explains that during the pre-employment interview, he was truthful and complete with his job history, residency in Linden, and his criminal record, which had been expunged. The appellant presents that the Police Department sent him a letter in August 2018 indicating that he was no longer being considered a candidate for the police academy due to an unsatisfactory report. He highlights that his brother, who had the same criminal background, had already passed three law enforcement background checks and been employed at three different law enforcement agencies. Thereafter, in December 2018, the appellant received a certification disposition notice from this agency informing him that he was removed from the subject list because he resided outside the residency scope. He complains that this notice is contrary to the reason that the appointing authority previously stated was the reason for his removal from the list. Further, he reiterates that he has been a resident of Linden since May 2016, which is two years prior to him applying for a position with the appointing authority and being interviewed by it. He submits an apartment lease, a rent deposit check, and various bills and pay stubs, all which are dated in 2018, to confirm his Linden address. Additionally, he presents that he started working for the appointing authority in the public works department in July 2017 and that position requires him to live in Linden.

In response, the appointing authority relies on its background report for the reasons stated above.

In reply, the appellant complains that he did not receive proper service of the background report from the appointing authority as it sent the report to an incorrect e-mail address for his attorney and made no other attempt to effectuate service. It was only after contacting the Division of Appeals and Regulatory Affairs that the appellant's attorney learned of this mistake. The appellant argues that the appointing authority's actions highly prejudiced him and were in violation of Civil Service regulations. He highlights that an appointing authority's failure to provide an eligible with a copy of the materials that were the basis for the removal from an eligible list may be grounds to deny an appointing authority's request to remove an eligible from a list. Therefore, the appellant requests that this his appeal be granted due to his assertion that the appointing authority failed to comply with Civil Service rules.

¹ In further support, the appellant also certifies that in June 2016, he received notification to sit for the subject examination at his Linden address.

Concerning his residence, the appellant reiterates his statement that he has resided in Linden since May 2016. He presents that a review of Linden's residency ordinance does not indicate the he was required to maintain a continuous New Jersey Driver License address listed as being in Linden from the subject examination closing date through appointment. Additionally, the appellant argues that his case is distinguishable from *Cerchio, supra*, because the appointing authority has not asserted that the appellant misled or lied on his application, or maintained an alternate address.

CONCLUSION

N.J.A.C. 4A:4-2.11(e)1 provides that when an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment.

N.J.A.C. 4A:4-2.11(c) provides that where residency requirements have been established, residence means a single legal residence. The following standards shall be used in determining legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner, a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

N.J.A.C. 4A:4-2.11(h) provides that an applicant seeking to appeal a residency determination shall have the burden of proving his or her residency.

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 his or her name from an eligible list was in error.

Initially, it is noted that it is irrelevant that the appointing authority directly sent the appellant a letter indicating that he was no longer being considered for the subject position due to an unsatisfactory background, which is different from the reason sent by this agency, as the certification disposition notice gave him notice that he was removed for residing outside the residency scope and informed him of his right to appeal that reason. Additionally, the appellant's submissions from 2018, as well as the fact that he was hired by the appointing authority's public works department starting in July 2017, do not prove the appellant had continuous residence in Linden from the August 31, 2016 closing date. Further, the appellant's complaint that he was prejudiced by the appointing authority's mistakenly sending his background report to his attorney's wrong e-mail address is without merit as his attorney did eventually receive the background report and the appellant was given a full opportunity to respond to it. Moreover, in its review of the record on appeal, the Commission has the authority to remove an eligible from a list for any of the reasons enumerated in *N.J.A.C.* 4A:4-4.7.

Concerning the appellant's residence, while the appellant argues that Linden's ordinance does not require a candidate to maintain a continuous New Jersey Driver License address as being in Linden from the closing date to appointment, *N.J.S.A.* 39:3-6 requires all drivers to report address changes to the Motor Vehicle Commission within one week of the change. Additionally, the appellant has not explained on appeal why he kept his cars insured using a Clark address while he claims to have lived in Linden. The reason that the appellant's insurance agent provided the investigator, that the appellant used a Clark address while living in Linden so that he could get his mail there, is not a valid or persuasive reason. In other words, either the appellant has not maintained a continuous residence in Linden from the August 31, 2016 closing date until appointment or potentially committed insurance fraud. Such actions are not indicative of the good judgment and integrity needed to be a Police Officer. See *Moorestown v. Armstrong*, 89 *N.J. Super.* 560, 566 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). See also *In re Phillips*, 117 *N.J.* 567 (1990).

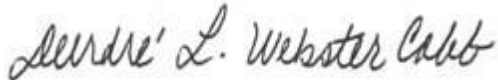
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the (S9999U) eligible list.

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 22nd DAY OF MAY, 2019



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