



**STATE OF NEW JERSEY**

In the Matter of Lonnie Wiggins,  
Police Officer (S9999U), Jersey City

CSC Docket No. 2019-2956

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

List Removal Appeal

**ISSUED: SEPTEMBER 12, 2019 (SLK)**

Lonnie Wiggins appeals his removal from the eligible list for Police Officer (S9999U), Jersey City on the basis that he possessed an unsatisfactory background.

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 he had an unsatisfactory background. The background report submitted to the Division of Agency Services also indicated that the appellant had an unsatisfactory employment history while working for the Department of Corrections and he committed multiple instances of tax fraud.

On appeal, the appellant highlights that he has worked as a State Correctional Police Officer for six years. He asserts that if his background was adverse to being a Police Officer, he would have been terminated from his current employment. The appellant submits a memorandum from the Chief of his department that indicates he would recommend the appellant for appointment as a Police Officer. He states that he has not been given specific reasons for his removal.

In response, the appointing authority submits its background report. The report indicates that in 2015, the appellant was a candidate for Police Officer with Jersey City from a prior certification. That background investigation indicated that the appellant was initially terminated prior to completing his working test period as

a State Correctional Police Officer for unapproved absences in 2013 and 2014. After a lawsuit that the appellant filed, the parties reached a settlement where it was agreed that the appellant could return to work, but he received no compensation. However, during the background investigation in 2015, the appellant had not returned to work. Additionally, at the same time, the appellant had an open criminal case against him for a July 2, 2015 incident in East Orange where he was accused of threatening to kill the boyfriend of a woman if he did not resolve the issues between the boyfriend's girlfriend and the appellant's girlfriend. The case was dismissed, but the appellant was unable to provide proof prior to the certification disposition. Additionally, the appointing authority found some inconsistencies in the appellant's residence during the 2015 investigation regarding whether he lived in Jersey City or in East Orange with the mother of his son.

The appellant was also a candidate to be a Jersey City Police Officer in 2016 based on a subsequent certification. The background investigation in 2016 indicated that the appellant was disciplined during his employment with New Jersey State Prison. It presents a December 2015 incident involving parking his personal vehicle in the parking lot for the Custody Supervisor, which led to a one-day suspension for being highly insubordinate and disrespectful to his supervisors. Additionally, there was a May 2016 incident, which led to him being charged with insubordination, conduct unbecoming a public employee, leaving a work area without permission, and continued use of obscene language. This led to the appellant receiving a 30-day suspension, which is major discipline. Additionally, he called out sick after exhausting all of his sick time on multiple occasions, which led to additional three and five-day suspensions. An Internal Affairs Major for the Department of Corrections indicated during the investigation that the appellant had a history of chronic or excessive absenteeism or lateness, that he "does not play well with others" and no one wants to work with him. This Major stated that they tried assigning him different Sergeants to mentor him, but all have given up. Therefore, the Major could not recommend him for employment as a Police Officer. Consequently, in August 2016, Jersey City removed his name from the list for an unsatisfactory employment history.

Concerning the current certification, the appointing authority contends that the appellant committed tax fraud in 2015, 2016, and 2017. It presents that the appellant indicated that he lives in Jersey City while his child lives in East Orange with his mother. However, on his federal tax returns, he claimed his son as his dependent and that he was the Head of Household, which led to him receiving tax refunds. The appointing authority states that the appellant clearly committed tax fraud by knowingly reporting an ineligible dependent on his tax returns, which the Civil Service Commission (Commission) has held is grounds for removal.

In reply, regarding the 2015 background investigation, the appellant explains that he was terminated during his working test period with the Department of Corrections while he was out on worker's compensation due to an injury sustained at work. Thereafter, he sued for wrongful termination and agreed to a settlement where he could return to work. However, he did not pursue back pay or legal fees as he did not want to hold up the settlement so that he continue the process of obtaining employment as a Jersey City Police Officer. Concerning the charge where he was accused of threatening to murder an individual, he states that all of the allegations were proven untrue and the case was dismissed. With regards to questions about his residency in Jersey City, he states that, while he did spend nights at his girlfriend's house in East Orange, he has always lived in Jersey City and a proper investigation would have confirmed this.

With respect to the 2016 background investigation, the appellant explains that New Jersey State Prison was a hostile work environment due to retaliation for discrimination complaints that he filed. This led to him requesting to be reassigned to a different institution. Concerning the parking incident, he believes he was retaliated against and he was charged with a one-day suspension. He believes he should have only received a written reprimand for a first offense under administration policy. With respect to the eight days he was suspended for exhausting leave time, all of his leave was approved as FMLA/FLA leave entitlements; however, disciplinary charges were still pursued against him. In reference to the major discipline, he explains the situation and denies the charges. However, he indicates that he settled and accepted the major discipline so that he could receive a reassignment to another institution.

Concerning the 2018 background investigation, the appellant highlights that he has not had any disciplinary issues in the three years since his reassignment and has provided a current letter of recommendation. He believes that this shows his true character. The appellant claims that he was legally allowed under IRS rules to file as Head of Household and claim his son as a dependent. In order to qualify, the child only needs to spend more nights with him than the other parent and does not have to physically reside with him.

## CONCLUSION

*N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)7*, allows the Commission to remove an eligible's name from an eligible list for having a prior employment history which relates adversely to the title.

*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.

In this matter, the appointing authority had valid reasons to remove the appellant's name from the list. A review of the appellant's Department of Corrections Work History indicated that he received a one-day suspension for a February 5, 2016 incident, an official written reprimand for a May 20, 2016 incident, a 30-day suspension for a May 23, 2016 incident, a three-day suspension for June 3, 2016 incident, and a five-day suspension for a July 1, 2016 incident. The appellant contends that these disciplines were unwarranted and were charged against him in retaliation for filing discrimination complaints. Additionally, he states the he only settled these matters to facilitate his reassignment to a new facility. Further, he presents that has not received any discipline since he was reassigned in August 2016 and argues this is evidence that his prior disciplines were unjust and only due to him previously working in a hostile environment. However, while the appellant had the opportunity to defend himself against these disciplinary actions; instead, he chose to either accept or settle them. As such, the record is clear that the appellant had an unsatisfactory employment history as of the August 31, 2016 closing date. Moreover, the fact that the appellant has not received any subsequent discipline after his reassignment does not prove this his disciplinary history was not adverse as of the closing date.

Concerning the allegation that the appellant committed tax fraud, the appellant submits a statement from the mother of their son, which indicates that their child lives typically lives with the appellant four nights per week and with her three nights per week, although it can vary. However, on the appellant's 2018 employment application, under question 28, the appellant indicated that his son resides with his mother in East Orange. Additionally, in response to being questioned about the appellant's residence, he signed a November 21, 2018 statement indicating that, "My son lives with his Mother currently since birth." As indicated in the instructions on a tax return (<https://www.irs.gov/pub/irs-pdf/i1040gi.pdf>), in order for appellant to have claimed Head of Household status on his federal tax return, the appellant must have paid over half the cost of keeping up a home in which he lived in and his son lived in for more than half of the year. Therefore, as the appellant's statements on his application indicate that his son resided with his mother, but his tax returns indicate that his son resided with him more than half the time, at minimum, the appellant made contradictory statements regarding his son's residence and may have committed tax fraud. It is noted that tax fraud is grounds for removal. *See In the Matter of Daniel Urban* (CSC, decided October 3, 2018). Moreover,

falsification of an employment application is also grounds for removal pursuant to *N.J.A.C.* 4A:4-6.1(a)6.

As such, the appellant's background indicates that he lacks the judgment and character to be a Police Officer. In this regard, it is recognized that a Police Officer is a law enforcement employee who must enforce and promote adherence within to the law. Police Officers hold highly visible and sensitive positions within the community and that the standard for an applicant includes good character and an image of the utmost confidence and trust. It must be recognized that a municipal Police Office is a special kind of employee. His primary duty is to enforce and uphold the law. He carries a service revolver on his person and is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. He represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public. *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).

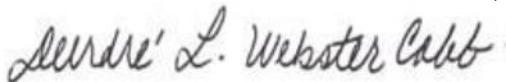
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999U), Jersey City eligible list.

### ORDER

Therefore, it is ordered that his 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 10<sup>th</sup> DAY OF SEPTEMBER, 2019



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