



STATE OF NEW JERSEY

In the Matter of Jesse Moya,
 Sheriff's Officer (S9999U),
 Hudson County

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

CSC Docket No. 2020-1572

List Removal

ISSUED: AUGUST 26, 2020 (JET)

Jesse Moya appeals the removal of his name from the Sheriff's Officer (S9999U), Hudson County eligible list for failure to maintain residency.

The appellant took the open competitive examination for Sheriff's Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified on January 28, 2019 (OL190092). Applicants were required to maintain continuous residency in Hudson County up to the date of appointment. *See N.J.A.C. 4A:4-2.11(e)1*. In disposing of the certification, the appointing authority requested the removal of the appellant's name based on his failure to maintain residency in Hudson County from the August 31, 2016 closing date of the examination. Specifically, the appointing authority asserted that its background investigation revealed that the appellant did not maintain continuous residency in Hudson County. Rather, the documentation shows that the appellant lived in Waldorf and District Heights, Maryland after the closing date.

On appeal to the Civil Service Commission (Commission), the appellant asserts that he maintained residency in Hudson County after the closing date of the announcement. The appellant explains that he temporarily stayed with his mother-in-law in July 2019, and he moved to Sussex County, New Jersey in September 2019 where he purchased a home. The appellant contends that he was unaware that he was required to update his address with the appointing authority and this agency, as he was unaware that he was still a candidate on the subject list. Moreover, he

explains that he moved out of Hudson County as it was too expensive to maintain residency in that jurisdiction.

CONCLUSION

N.J.A.C. 4A:4-2.11(c) provides in pertinent part that where residence requirements have been established in local service, residence means a single legal residence. The following standards shall be used in determining local 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 (see section 4 of P.L. 2003, c.246), 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 legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by children living with the individual is the same as the claimed residence.

See e.g., In the Matter of Roslyn L. Lightfoot (MSB, decided January 12, 1993) (Use of a residence for purposes of employment need and convenience does not make it a primary legal residence when there is a second residence for which there is a greater degree of permanence and attachment). *See also, In the Matter of James W. Beadling* (MSB, decided October 4, 2006). Moreover, *N.J.A.C.* 4A:4-2.11(e)1 states that unless otherwise specified, residency requirements shall be met by the announced closing date for the examination. 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. Additionally, *N.J.A.C.* 4A:4-4.7(a)7 provides that discontinuance of an eligible's residence in the jurisdiction to which an examination was limited or for a title for which continuous residence is required is a

cause for disqualification from an eligible list. *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 instant matter, the appellant clearly admits that he did not maintain continuous residency in Hudson County, as he indicates that he temporarily moved to Maryland and subsequently purchased a home in Sussex County after the August 31, 2016 closing date. The appellant was required to maintain residency in Hudson County pursuant to *N.J.A.C.* 4A:4-2.11(e)1. As such, his argument that he was unaware that he was still a candidate on the subject list does not overcome that he was required to maintain continuous residency in the jurisdiction. In order to be placed on the eligible list for the subject position, the appellant was required to apply for and take the Law Enforcement Examination (S9999U). The S9999U announcement indicates that, where hiring preferences apply, applicants must meet the residency requirements of the appointing jurisdiction as of August 31, 2016 and may be required to maintain continuous residency in that jurisdiction up to an including the date of appointment. Therefore, the appellant's removal from the list was proper based on his failure to maintain residency in the subject jurisdiction.

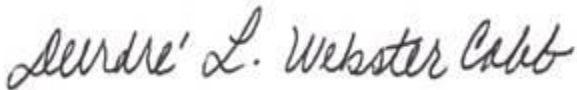
Accordingly, under these circumstances, the appointing authority has presented a sufficient basis to remove the appellant's name from the Sheriff's Officer (S9999U), Hudson County, eligible list.

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 19TH DAY OF AUGUST 2020



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