



STATE OF NEW JERSEY

In the Matter of N.D.,
 Correctional Police Officer (S9988A),
 Department of Corrections

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

CSC Docket No. 2020-2300

List Removal Appeal

**ISSUED: NOVEMBER 27, 2020
 (SLK)**

N.D. appeals the decision to remove her name from the Correctional Police Officer (S9988A), Department of Corrections eligible list on the basis that she lacked the requirements for the position.

The appellant took the open competitive examination for Correctional Police Officer (S9988A), Department of Corrections, which had a January 31, 2019 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking her removal, the appointing authority indicated that the appellant had a medical marijuana card (card) that expired on November 30, 2021. Further, the appellant indicated that she smoked marijuana weekly due to a medical condition. In its February 26, 2020 letter to the appellant, the appointing authority indicated that as a marijuana user, she would be precluded from possessing a firearm, which is a condition of employment.

On appeal, the appellant presents that she voluntarily informed the investigating officers that she possessed the card due to a medical condition. She states that she was not aware that possession of the card would preclude her from possessing a firearm and employment in the subject title. The appellant indicates that she informed the investigators that she had not purchased or used marijuana since she received the card in November 2019. She also advised the investigators that when she did use medical marijuana, she only used it on the weekends. She states that since November 2019, she has not found a reason to use medical

marijuana as she uses prescribed medicine to treat her medical condition instead and will continue to only use the prescribed medicine. The appellant notes that she did pass the drug screen during pre-employment processing, which she asserts proves that does not currently use marijuana. She provides an e-mail from the State Medical Marijuana Program that indicates that as of March 2, 2020, she was removed from the program. The appellant indicates she is willing to get tested again for marijuana use.

In response, the appointing authority presents that candidates must be able to possess a firearm in accordance with State and federal law. It notes that the federal government treats marijuana as a Schedule I controlled substance with no accepted medical purpose and prohibits an “unlawful user” from possessing firearms. The appointing authority states that the appellant obtained the card after she applied for the Law Enforcement Examination. It asserts that the appellant should have read the job requirements prior to applying for the position and if she had, she would have known that possessing the card would preclude her from employment in the subject title.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C. 4A:4-6.1(a)1*, provides that an eligible’s name may be removed from an eligible list for failure to satisfy the job requirements.

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 the appointing authority properly removed the appellant’s name from the list as, at the time the appointing authority made its decision, the appellant indicated that she possessed a medical marijuana card which precluded her from possessing a firearm, which is a condition of employment. However, the appellant now indicates that she no longer uses medical marijuana and provides evidence that she is no longer in the Medical Marijuana Program. She also presents that she did not test positive for marijuana during the employment process, which the appointing authority has not disputed. Therefore, although the appellant was unable possess a firearm at the time the appointing authority made its decision to remove her name from the list, she should not be precluded from consideration for employment now that she is no longer in the Medical Marijuana Program.

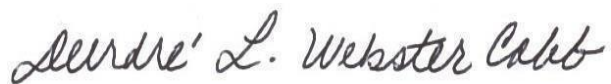
This decision is based on the specific facts and circumstances presented and shall not be used as precedent in any future matters.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the Correctional Police Officer (S9988A), Department of Corrections eligible list, for prospective employment opportunities only.

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 24TH DAY OF NOVEMBER 2020



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