

B-4



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Kindler Payne,  
County Police Officer and County  
Correction Officer (S9999R), Camden  
County

CSC Docket Nos. 2015-3351 and  
2015-3354

List Removal Appeals

ISSUED: ~~NOV 20 2015~~ (CSM)

Kindler Payne, represented by James Katz, Esq., appeals the attached decisions of the Division of Agency Services (Agency Services) which found that the appointing authority had presented a sufficient basis to remove his name from the eligible lists for County Police Officer and County Correction Officer (S9999R), Camden County, on the basis of an unsatisfactory driving record.

In disposing of the November 17, 2014 certification for County Police Officer and the May 16, 2014 certification for County Correction Officer, the appointing authority requested the removal of the appellant's name, contending that the appellant had an unsatisfactory driving record. In support of its request, the appointing authority provided copies of the appellant's Driver History abstract that indicated two violations for careless driving on September 27, 2013 and January 30, 2007, one violation of obstructing passage of other vehicles on July 6, 2013, two violations for speeding on April 18, 2013 and April 27, 2011, three violations for maintenance of lamps in 2007, one violation for improper use of multiple light beams in 2007, one violation for improper display/fictitious plates in 2007, and one violation for delaying traffic in 2005. Agency Services determined that the appointing authority sufficiently documented its request to remove the appellant's name from the title areas of the subject list.

On appeal to the Civil Service Commission (Commission), the appellant states that he recognizes that his driving record evidences moving violations since 2009, but states that this period is atypical and his overall record is not so egregious that it would warrant his name being removed from the subject title areas. In this

regard, the appellant notes that he has never been accused or convicted of driving under the influence of drug or alcohol, has never been arrested, and has never had his license suspended due to a moving violation. Further, he maintains that he has made significant efforts at rehabilitation, as evidenced by the two-point credit he received for annual safe driving as well as another two point credit for successfully completing a safe driver course. Therefore, the appellant maintains that his name should not be removed from the title areas of the subject list.

In response, the appointing authority reiterates that the appellant has a documented unsatisfactory driving record and that this provides a sufficient basis to remove his name from the title areas of the subject list.

### 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. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a law enforcement officer. See *In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

In the matter at hand, the record establishes that the appellant's driving record reflected two violations for careless driving on September 27, 2013 and January 30, 2007, one violation of obstructing passage of other vehicles on July 6, 2013, two violations for speeding on April 18, 2013 and April 27, 2011, three violations for maintenance of lamps in 2007, one violation for improper use of multiple light beams in 2007, one violation for improper display/fictitious plates in 2007, and one violation for delaying traffic in 2005. Indeed, one of his violations occurred in September 2013, only eight months prior to the certification being issued for County Correction Officer. While the appellant argues that the violations he accrued during the period between 2009 and 2013 are not indicative of his overall suitability for the positions, it cannot be ignored that such conduct reveals a complete disregard for motor vehicle laws and is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of duties of a County Police Officer or a County Correction Officer. In this regard, it is recognized that a County Police Officer and a County Correction Officer are law enforcement employees who must help keep order in the prisons and promote adherence to the law. Incumbents in these title, like 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 incumbents in these titles to present a personal background that exhibits respect for the law and rules. These multiple violations, especially those occurring in recent proximity to the time when the certifications were issued in May 2014 and November 2014, do not demonstrate possession of these qualities. Additionally, while the Commission recognizes the appellant's efforts regarding rehabilitation, not enough time has elapsed since his last offense that would warrant the restoration of his name to the lists at this time.

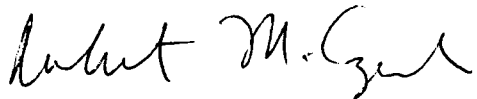
Accordingly, given the totality of the circumstances, the appointing authority has presented sufficient cause to remove the appellant's name from the County Police Officer and County Correction Officer (S9999R) eligible lists.

### ORDER

Therefore, it is ordered that these appeals 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 18<sup>TH</sup> DAY OF NOVEMBER, 2015



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachments

c: James Katz, Esq.  
Kindler Payne  
Frank E. Ciri  
Kenneth Connolly



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF AGENCY SERVICES  
P. O. Box 314  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

June 11, 2015

James Katz

**RE: Kindler Payne – Title: County Police Officer**  
**Jurisdiction: Camden County – Symbol: S9999R**  
**Certification No.: OL141504 – Certification Date: 11/17/2014**

Dear Mr. Katz:

This is in response to your correspondence contesting the bypass of your client's name on the referenced certified list of eligibles.

The Appointing Authority disposed of the certification requesting removal of your client's name in accordance with *N.J.A.C. 4A:4-4.7(a)4*, which permits the removal of an eligible due to a criminal record that adversely relates to the employment sought.

In support of its decision, the Appointing Authority provided a narrative which indicates in June of 2007, a domestic complaint and a restraining order were entered against your client. Consequently, the Appointing Authority determined that your client's criminal record was unsatisfactory.

In your correspondence, you indicate that when the 2007 incident occurred, your client was 18 years of age. You call attention to the fact that your client was never arrested or criminally charged for this isolated incident. You further state that on June 27, 2011, at the request of the plaintiff, the restraining order was dismissed. You believe that the circumstances of the incident, your client's age at the time and the isolated nature of the occurrence are all factors that support his restoration to the list.

However, in addition to the aforementioned removal for an unsatisfactory criminal record, our records reflect that your client was also removed for cause, by the same Appointing Authority, on a previous certification (OL140623) issued from the 2013 Law Enforcement Examination (LEE) Pool (S9999R). The removal, which took effect March 9, 2015, was due to your client's unsatisfactory driving record. Pursuant to *N.J.A.C. 4A:4-4.7(g)*, when the Civil Service Commission has accepted a single application for one or more title areas, an eligible whose name has been removed from the pool of eligibles for one jurisdiction or title area for cause shall be removed from the pool of eligibles for any other jurisdiction or title area.

Mr. James Katz  
RE: Kindler Payne (OL141504)  
June 11, 2015  
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After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your client's name to the eligible list. Although your arguments regarding the removal from the subject certification are persuasive, the preceding removal from OL140623 prohibits restoration of your client's name for all LEE Pool titles, including County Police Officer. Therefore, the Appointing Authority's request to remove your name has been sustained and your appeal is denied.

In accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs within 20 days of receipt of this letter. You must submit all proofs, arguments, and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010 C.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, C. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees. Address all appeals to:

Henry Maurer, Director  
Division of Appeals and Regulatory Affairs  
Written Appeals Record Unit  
PO Box 312  
Trenton, NJ 08625-0312

Sincerely,  
For the Director,



Scott Nance, Supervisor  
Local Certifications Unit

c: Frank Cirii



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
AGENCY SERVICES  
P. O. Box 313  
Trenton, New Jersey 08625-0313  
June 5, 2015

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

Robert M. Czech  
Chair/Chief Executive Officer

James Katz

**RE: Removal of Name from Eligible List – Kindler Payne**

**Title: County Correction Officer**  
**Jurisdiction: Camden County**  
**Symbol: S9999R**

**Certification No: OL140623**  
**Certification Date: 5/16/14**

Dear Mr. Katz:

This is in response to your correspondence regarding the removal of your client's name from the Law Enforcement eligibility list in association with the certification cited above.

The Appointing Authority requested removal of your client's name in accordance with N.J.A.C. 4A:4-4.7(a)11, which permits the removal of an eligible candidate's name from the eligible list for "valid reasons as determined by the Chairperson of the Civil Service Commission or designee".

In support of its decision, the Appointing Authority provided a Background Investigation Report which included a narrative of your client's abstract. Based on this information, the Appointing Authority states that Mr. Payne has had multiple motor vehicle infractions and a license suspension which exhibit a pattern of disregard for motor vehicle laws.

In your letter, you indicate that your client accrued three of the infractions in a six-month time frame and that his suspension was not as a result of moving violations. You also posit that his driving record is not so egregious as to warrant removal from the list because none of the moving violations were associated with DUI or accidents.

A Correction Officer is a law enforcement employee who must enforce and promote adherence to the law. Correction Officers hold highly visible and sensitive positions within the community and the standards for an applicant include good character and an image of utmost confidence and trust. Based on the information presented, your client's background shows a pattern of questionable judgment and a disregard for motor vehicle laws.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore Mr. Payne's name to the eligible list. Therefore, the

Appointing Authority's decision to remove your client's name has been sustained and the appeal is denied.

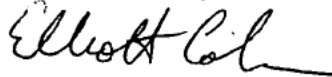
In accordance with Merit System Rules, this decision may be appealed to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

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Address all appeals to:

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Written Appeals Record Unit  
PO Box 312  
Trenton, NJ 08625-0312

Sincerely,  
For the Director,



Elliott Cohen  
Human Resource Consultant  
Local Placement Services

Frank E. Cirii Human Resources

