



STATE OF NEW JERSEY

In the Matter of Nakia Hill,
Medical Security Officer Recruit
(S0239T), Department of Human
Services

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

CSC Docket No. 2018-3279

List Removal Appeal

ISSUED: OCTOBER 5, 2018 (JET)

Nakia Hill, represented by Lawrence E. Popp, Esq., appeals the removal of her name from the Medical Security Officer Recruit (S0239T), Department of Human Services eligible list on the basis of an unsatisfactory criminal record.

The appellant took the open competitive examination for Medical Security Officer Recruit (S0239T), achieved a passing score, and was ranked on the subsequent eligible list. The appellant’s name was certified on February 5, 2018. In disposing of the certification, the appointing authority requested the removal of the appellant’s name from the eligible list on the basis of an unsatisfactory criminal record. Specifically, the appointing authority asserted that, while serving as a Temporary Employment Services Direct Care AFSCME (TES) employee, the appellant was arrested on April 11, 2015 and charged with Possession of Weapons for Unlawful Purposes and Unlawful Possession of Weapons. Subsequently she pled guilty to Improper Behavior. It is noted that the appellant was employed as a TES employee from April 5, 2014 to April 17, 2015. The appointing authority removed her from the TES position as a result of the aforementioned charges against her.

On appeal to the Civil Service Commission (Commission), the appellant asserts that the original charges against her were dismissed and she pled guilty to the charges of Improper Behavior.

In response, the appointing authority contends that, due to the appellant's status as a temporary TES employee, she was removed based on the charges against her. The appointing authority adds that, although the appellant now argues that the original charges against her were dismissed, the record shows that she was guilty of Improper Behavior. Moreover, the appointing authority asserts that the appellant was not recommended for rehire based on her criminal record as it is at the appointing authority's discretion to appoint a candidate who has been convicted of a crime.

CONCLUSION

N.J.S.A. 11A:4-11, in conjunction with *N.J.A.C.* 4A:4-4.7(a)(4), provides that an eligible's name may be removed from an employment list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. In this regard, the Commission must look to the criteria established in *N.J.S.A.* 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)(4) to determine whether the appellant's criminal history adversely relate to the position of Medical Security Officer Recruit. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

Additionally, *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 an appointment.

In this matter, it is clear that the appellant's offense adversely relates to the employment sought. The record indicates that the appellant was arrested in April 2015. Although the charges against her were dismissed, she pled guilty to the lesser offense of Improper Behavior, and she has provided no explanation for her involvement in the incident. As such, the appellant has not provided any substantive documentation or explanation to show that the removal of her name from the list was incorrect. It cannot be ignored that the incident occurred less than three years prior to the date her name was certified on the list. Although the appellant argues that the charges against her were downgraded, such information does not change the outcome of the case. In order to determine the most suitable

candidates for the position, the appointing authority was entitled to review the entirety of the appellant's background report including her criminal record, and based on the charges and the fact that she pled guilty to the aforementioned offense, it properly determined that she was not suitable for the position. However, the removal in this matter does not prevent the appellant from applying for any similar positions in the future, as the further passage of time may be sufficient to show that she has been rehabilitated.

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 3rd DAY OF OCTOBER, 2018



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Civil Service Commission

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