



STATE OF NEW JERSEY

In the Matter of Robert Sinicropi,
Parole Officer Recruit (S1000U),
State Parole Board

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

CSC Docket No. 2018-2891

List Removal Appeal

ISSUED: AUGUST 17, 2018 (SLK)

Robert Sinicropi appeals his removal from the eligible list for Parole Officer Recruit (S1000U), State Parole Board on the basis that he possessed an unsatisfactory background.

The appellant took the open competitive examination for Parole Officer Recruit (S1000U), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority’s background report indicated that the appellant possessed an unsatisfactory criminal and employment history.

On appeal, the appellant acknowledges that he used cocaine one time while in the Army at a strip club in 2004 and, in 2006 after his discharge while in California, used cannabis for post-traumatic stress disorder. He explains that when he was 20 years old and just returning from a war zone, he felt peer pressure from older and higher ranked officers and he sniffed cocaine off a stripper’s breast. Thereafter, he failed a drug test and received punishment in a military jurisdiction. The appellant states that he received an Honorable Conditions General discharge from the Army in 2004. Subsequently, in January 2006 at age 22, he was arrested for possession of marijuana while in California and he paid court costs and completed a drug rehabilitation program. He reiterates that when he returned home from war, he was emotionally damaged, could not sleep and had heightened anxiety. The appellant states that using cannabis helped mask his symptoms, but being arrested and going through a drug rehabilitation program helped him realize that he did not need to use

drugs and he no longer feels the need to use them. Further, he presents that medical marijuana was legal in California although he admits he did not have a medical card. He emphasizes that since that time medical marijuana has become widely accepted and recreational marijuana has also gained more acceptance.

The appellant argues that he has been rehabilitated as he has not been arrested since the 2006 incident, was employed as a freight broker from April 2006 to January 2018, earned his college degree, is currently pursuing his Masters of Business Administration (MBA), got married and has three children. He indicates that he has been employed as a Parole Counselor Apprentice at New Jersey State Prison since January 2018.

In response, the appointing authority indicates that the appellant was automatically disqualified due to past employment history, disciplinary actions and performance issues and his conviction for possession of marijuana. It explains that a General, Under Honorable Conditions discharge is for service members whose service was satisfactory, but involved situations where the soldier's conduct and/or performance of duty were not so meritorious to warrant an Honorable Discharge.

In reply, the appellant emphasizes that his discharge was honorable entitling him to all benefits. He cites cases which he believes are similar and support his appeal.

CONCLUSION

N.J.S.A. 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 provide that an eligible's name may be removed from an eligible list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. 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.

The presentation to an appointing authority of a pardon or expungement shall prohibit an appointing authority from rejecting an eligible based on such criminal conviction, except for law enforcement, correction officer, juvenile detention officer, firefighter or judiciary titles and other titles as the Chairperson of the Civil Service Commission (Commission) or designee may determine. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate's removal from a Police Officer eligible list to consider whether the candidate's arrest adversely related

to the employment sought based on the criteria enumerated in *N.J.S.A. 11A:4-11*. See *Tharpe v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992).

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C. 4A:4-6.1(a)7*, allows for the removal of an individual from an eligible list who has a prior employment history which related adversely to the position sought. *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 Commission is not bound in any way by an appointing authority's internal standard in assessing the propriety of a candidate's removal from a list. See *In the Matter of Joseph Hutsebaut* (CSC, decided April 19, 2017). In the instant matter, a review of the record indicates that the appellant received disciplinary action from the Army in 2004 due to use of cocaine at age 20 and was convicted for possession of marijuana in California at age 22 in 2006. The fact that his 2006 conviction was expunged does not mean that the appointing authority cannot consider this offense in determining whether or not to remove the appellant from the subject eligible list. However, while the appellant's 2004 and 2006 incidents were not trivial matters, the nature of these incidents were not so serious as to automatically exclude the appellant from consideration as a Parole Officer Recruit especially since the latest incident was in 2006, over 12 years prior to the June 21, 2016 closing date. Further, the appellant has shown significant evidence of rehabilitation by earning his college degree and pursuing a MBA, being employed since April 2006 and getting married and having children. Moreover, the 2006 conviction was expunged.

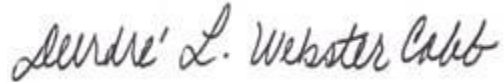
The Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel. See *Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). See also *In re Phillips*, 117 *N.J.* 567 (1990). However, taking into consideration that the appellant's last incident was over 12 years prior to the closing date, and the totality of the evidence in the record, the appointing authority has not presented a sufficient basis to remove the appellant's name from the subject eligible list. See *In the Matter of Robert Merten* (MSB, decided December 1, 2004) and *In the Matter of Jeffrey Spengler* (MSB, decided December 20, 2006).

ORDER

Therefore, it is ordered that his appeal be granted and the appellant's name be restored to the list for Parole Officer Recruit (S1000U) for prospective employment opportunity 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 15th DAY OF AUGUST, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Robert Sinicropi
Penny Thorpe
Kelly Glenn