



STATE OF NEW JERSEY

In the Matters of Yanzan Abaza and
Nicholas Saliba, County Correction
Officer (S9999U), Passaic County
Sheriff's Office

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

CSC Docket Nos. 2019-1009 and
2019-966

List Removal Appeal

ISSUED: February 8, 2019 (SLK)

Yanzan Abaza and Nicholas Saliba appeal their removals from the eligible list for County Correction Officer (S9999U), Passaic County Sheriff's Office on the basis that they possessed unsatisfactory driving records. These appeals have been consolidated due to common issues presented.

The appellants took the open competitive examination for County Correction Officer (S9999U), achieved a passing score, and were ranked on the subsequent eligible list. In seeking their removal, the appointing authority indicated that the appellants possessed an unsatisfactory driving history. Specifically, its background report for Abaza indicated that he had numerous motor vehicle violations, including speeding, careless driving, unsafe operation of a motor vehicle, failure to wear seatbelt, failure to exhibit documents, improper display/fictitious plates, maintenance of lamps, and improper muffler. Additionally, his driver's license was previously suspended and he was involved in four accidents. A review of his certified driver's abstract indicated that he was last involved in an accident in July 2016 and his last motor vehicle violation was for not being in possession of a license, registration or insurance identification in April 2012.

Concerning Saliba, its background report indicated that he had numerous motor vehicle violations including speeding, careless driving, reckless driving, operating while suspended, unsafe operation of a motor vehicle, failure to give proper signal, failure to wear seatbelt, failure to yield to emergency vehicles, improper

plates/fictitious plates, wrong way on a one-way street, and illegal backing/turning in street. Additionally, his license was suspended from April 2001 to October 2006 and December 2008 to January 2009. Saliba's certified driver abstract indicates that his last violation was for abandoning a vehicle on private property in November 2010.

On appeal, Abaza presents that his last moving violation was over 10 years ago in August 2008. He asserts he has now matured as demonstrated by the fact that he does not have any recent moving violations. Abaza states that any subsequent violations involved the maintenance of his car and he believes that such violations should not be held against him as they were a function of him trying to save enough money to get repair work done. Additionally, he presents that he was employed as a United States Postal Carrier and contends he would not have been hired in this position if he had an unsatisfactory driving history.

Saliba acknowledges that his past driving history was unsatisfactory. He explains that he was young and immature at that time, but contends that he has demonstrated sufficient rehabilitation based on his not receiving any moving violations in the past 10 years, his two college degrees, his home ownership, his marriage and son, and his not having any other negative interactions with the law.

Although given the opportunity, the appointing authority has not submitted responses to these appeals.

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 Civil Service Commission (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 appointment. The Commission has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle violations 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).

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 these matters, although the appellants previously had unsatisfactory driving records, they have demonstrated sufficient rehabilitation. Specifically, Abaza's certified driver's abstract indicates that his last motor vehicle violation was in April 2012 which is over four years prior to the August 31, 2016 closing date of the examination and Saliba's last motor vehicle violation was in November 2010, nearly six years prior to the closing date. Additionally, the appellants both argue that they have matured and, although given the opportunity, the appointing authority did not respond to the appeals, so there is no evidence to contradict these assertions. Finally, as the appointing authority has not been presented any evidence that Abaza's most recent accident was his fault, it shall not be held against him.

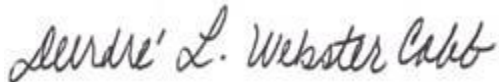
Accordingly, the appellants have met their burdens of proof in these matters and the appointing authority has not shown sufficient cause for removing their names from the County Correction Officer (S9999U), Passaic County Sheriff's Office eligible list.

ORDER

Therefore, it is ordered that these appeals be granted, and Yanzan Abaza's and Nicholas Saliba's names be restored to the (S9999U) 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 6th DAY OF FEBRUARY, 2019



Deirdre 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: Yanzan Abaza 2019-1009
Nicholas Saliba 2019-966
Richard H. Berdnik, Sheriff
Kelly Glenn