



STATE OF NEW JERSEY

In the Matter of Terrence Cobbertt,
Jr., County Correctional Police
Officer (S9999A), Essex County

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

CSC Docket No. 2022-852

List Removal Appeal

ISSUED: May 2, 2022 (HS)

Terrence Cobbertt, Jr. appeals the removal of his name from the eligible list for County Correctional Police Officer (S9999A), Essex County on the basis of an unsatisfactory criminal record.

The appellant, a non-veteran, took and passed the open competitive examination for County Correctional Police Officer (S9999A), which had a closing date of August 31, 2019. The resulting eligible list promulgated on May 15, 2020 and expires on May 14, 2023.¹ The appellant’s name was certified to the appointing authority on May 18, 2020. In disposing of the certification, the appointing authority requested the removal of the appellant’s name due to an unsatisfactory criminal record. Specifically, the appointing authority asserted that the appellant was arrested on October 21, 2019 in Bloomfield Township and ultimately charged with failure to make proper disposition of a controlled dangerous substance, *N.J.S.A. 2C:35-10C*, and use, or possession with intent to use, drug paraphernalia, *N.J.S.A. 2C:36-2*, both disorderly persons offenses. The appointing authority’s documentation indicated that as of February 4, 2020, the case had been transferred to Remand Court.

On appeal to the Civil Service Commission (Commission), the appellant submits a copy of a Special Remand Notice from the Superior Court, Essex Vicinage,

¹ The list was extended one year to May 14, 2023.

Criminal Division, which states that the above-mentioned charges were dismissed on prosecutor motion before a judge on April 21, 2021.

Despite the opportunity, the appointing authority did not submit any further arguments.²

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 that includes a conviction for a crime that 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 of a pardon or an expungement shall prohibit removal from a list, except for law enforcement, correction officer, correctional police officer, juvenile detention officer, firefighter, or judiciary titles, and other titles as the Chairperson or designee may determine. Additionally, pursuant to *N.J.S.A.* 11A:4-10, an appointing authority may only question an eligible for a law enforcement, firefighter or correction officer title as to any arrest. 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)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 appointment. *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 name from an eligible list was in error.

² It is also noted that the Commission received no evidence that the appointing authority provided the appellant with a copy of all documents and arguments upon which it based its request to remove his name from the eligible list when it disposed of the certification. See *N.J.A.C.* 4A:4-4.7(b)1 ("Upon request of the eligible or upon the eligible's appeal, the appointing authority shall provide the eligible with copies of all materials sent to the appropriate Commission representative").

While the Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel, a review of the record in this matter indicates that upholding the appellant's removal from the subject eligible list at this stage is unwarranted. While the appointing authority was initially justified in requesting the removal of the appellant's name because the charges were still pending at the time the appointing authority conducted its background investigation, the appellant has, in the instant appeal proceeding, come forward with evidence that the charges have since been dismissed on prosecutor motion. The appointing authority did not respond to the appeal, let alone provide any evidence as to how the appellant's lone arrest for disorderly persons offenses adversely relates to the employment sought per *N.J.S.A. 11A:4-11*, *N.J.A.C. 4A:4-4.7(a)4*, and *Tharpe, supra*. Accordingly, based on the totality of the record in this matter, the appellant has met his burden of proof, and it is appropriate to restore the appellant's name to the subject eligible list.

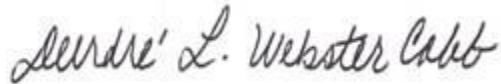
A final comment is warranted. Under *N.J.A.C. 4A:4-4.7(b)1*, an appointing authority is required to provide an eligible with copies of all materials sent to the appropriate Commission representative upon request of the eligible or upon the eligible's appeal. There is no evidence that the appointing authority did so in this case. As such, the appointing authority is reminded that it must comply with its regulatory obligation in the future.

ORDER

Therefore, it is ordered that this appeal be granted and Terrence Cobbertt, Jr.'s name be restored to the eligible list for County Correctional Police Officer (S9999A), Essex County for prospective employment opportunities.

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 27TH DAY OF APRIL 2022



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