



STATE OF NEW JERSEY

In the Matter of Alaa Alateek, Police
Officer (S9999A), Jersey City

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

CSC Docket No. 2023-1047

List Removal Appeal

ISSUED: May 3, 2023 (HS)

Alaa Alateek, represented by Nicole L. Atlak, Esq., appeals the removal of her name from the eligible list for Police Officer (S9999A), Jersey City on the basis that she did not appear for the psychological examination.

The appellant, a non-veteran, took and passed the open competitive examination for Police Officer (S9999A), which had a closing date of August 31, 2019. The resulting eligible list promulgated on May 15, 2020 and expired on November 9, 2022. The appellant’s name was certified to the appointing authority on February 16, 2022 (OL220197). In disposing of the certification, the appointing authority requested the removal of the appellant’s name on the basis that she did not appear for the psychological examination. Specifically, the appointing authority stated that during the appellant’s formal psychological interview, she received a telephone call regarding a scheduled court appearance for a temporary restraining order (TRO) where she was the defendant. At that point, the interview was discontinued and not rescheduled by the appointing authority. The appointing authority also noted, among other things, that the appellant was prohibited from possessing firearms or other weapons under the terms of the TRO. The disposition of the certification was recorded October 28, 2022.

On appeal to the Civil Service Commission (Commission), the appellant notes that on November 16, 2022, the TRO was dismissed at the plaintiff’s request. The appellant further argues that no consideration should be given to the fact that she could not possess any weapon at the time the certification was outstanding because she was merely a candidate; she had not yet begun academy training and, as such, had not been issued a firearm and had no duty to possess same; and there is nothing prohibiting her from possessing a weapon

now. In support, the appellant submits, among other things, a copy of the court order dismissing the TRO.

Despite the opportunity, the appointing authority did not submit any further arguments. Additionally, there is no evidence in the record that the appointing authority provided the appellant with a copy of all documents and arguments upon which it based its request to remove her name from the eligible list. *See N.J.A.C. 4A:4-4.7(b)*.

CONCLUSION

Initially, the Commission notes that there is 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 her name from the eligible list as required under *N.J.A.C. 4A:4-4.7(b)*. As such, the appointing authority is reminded that it must comply with its regulatory obligation in the future. Nevertheless, the regulation provides only that the request for removal *may* be denied if the appointing authority fails to provide the eligible with copies of materials. *See N.J.A.C. 4A:4-4.7(b)2*. For the reasons that follow, the Commission will uphold the removal of the appellant's name notwithstanding the appointing authority's inaction.

N.J.A.C. 4A:4-4.7(a)3 states that an eligible may be removed from an eligible list for inability or unavailability to accept 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 her name from an eligible list was in error.

In this matter, the record reveals that the appellant had a TRO that prohibited her from possessing a firearm or any weapon. Thus, she could not be appointed. *See N.J.S.A. 2C:58-3c*. The appellant contends that no consideration should be given to the fact that she could not possess a weapon at the time of certification as she was merely a candidate who had not yet begun academy training and thus had not been issued a firearm. The Commission is unpersuaded. Under Police Training Commission regulations, *prior to the acceptance of a trainee into a basic course*, the chief police officer or chief executive officer of the employing law enforcement agency must certify that, among other things, the employing law enforcement agency has conducted a pre-employment or background investigation of the individual to ascertain his or her character, fitness, and eligibility to be permanently appointed as a police officer. *See N.J.A.C. 13:1-8.1(a)4*. Therefore, the appellant's inability to possess a weapon was surely worthy of the appointing authority consideration notwithstanding that she was "merely" a candidate. Additionally, regardless of the later dismissal of the TRO, since it was in effect *at the time of certification and the appointing authority's review of her background report*, the appellant's removal was appropriate as the TRO rendered her unavailable for appointment. *See, e.g., In the Matter of Sharonda Bodison* (CSC, decided November 21, 2018). Moreover, the subject eligible list expired on November 9, 2022. It is noted that a candidate does not possess a vested property interest in

the position. The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 N.J. Super. 494 (App. Div. 1990). Accordingly, since the position of Police Officer requires an individual to possess a firearm, and the appellant was prohibited by law from possessing a firearm, her removal from the Police Officer (S9999A), Jersey City eligible list was warranted.

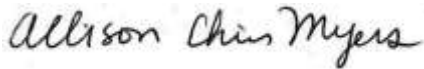
As a final matter, the Commission finds that failure to appear for the psychological examination was not the most accurate certification disposition for the appellant. Here, the appellant appeared for her formal psychological interview, but it was the *appointing authority* that did not reschedule it, albeit for good reason as discussed above. Thus, it is appropriate that the appellant's disposition be changed to show that she was unable or unavailable to accept appointment.

ORDER

Therefore, it is ordered that this appeal be denied. It is further ordered that Alaa Alateek's disposition on the February 16, 2022 certification (OL220197) be recorded as inability or unavailability to accept appointment.

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 MAY, 2023



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