



STATE OF NEW JERSEY

In the Matter of Nadine Downing,
Substance Abuse Counselor (S0777C),
Department of Health

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

CSC Docket No. 2024-2386

List Removal Appeal

ISSUED: December 18, 2024 **(JET)**

Nadine Downing appeals the removal of her name from the Substance Abuse Counselor (S0777C), Department of Health eligible list on the basis of an unsatisfactory background report.

The appellant took the open competitive examination for Substance Abuse Counselor (S0777C), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified on February 26, 2024 (OS240114). 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 background report. Specifically, the appointing authority asserted that on November 20, 1992, the appellant was found guilty of Larceny, and was sentenced to three years of probation. The list, which expires on February 23, 2025, currently has no remaining eligibles.

On appeal to the Civil Service Commission (Commission), the appellant asserts, in pertinent part, that the above listed Larceny infraction occurred over 30 years ago, and she has not been charged with any additional legal infractions since that time. As such, the appellant requests that her name be restored to the subject eligible list.

In response, the appointing authority maintains, in relevant part, that the appellant's background with respect to the 1992 Larceny infraction is sufficient to remove her name from the subject eligible list.

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 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 or her name from an eligible list was in error.

In this matter, the appointing authority argues that the 1992 conviction is sufficient to remove the appellant's name from the subject eligible list. However, the Commission is not bound by criteria utilized by the appointing authority and must decide each list removal on the basis of the record presented. *See In the Matter of Victor Rodriguez* (MSB, decided July 27, 2005). *See also, In the Matter of Debra Dygon* (MSB, decided May 23, 2000). In this matter, the record reflects that the appellant was convicted and sentenced to three years of probation over 30 years ago. Moreover, she has not been involved with any further legal infractions since that time. As such, the 1992 conviction appears to have been an isolated incident. Since the record reflects that the appellant has not been involved with any other legal infractions since that time, which the appointing authority does not refute, a sufficient amount of time has elapsed to show that the appellant has been rehabilitated. Accordingly, under the circumstances, the appointing authority has not demonstrated that the appellant's background constitutes sufficient cause to remove her name from the subject eligible list.¹

ORDER

Therefore, it is ordered that the appellant's name be restored to the eligible list for prospective employment opportunities only. Should her name not be certified prior to the expiration of S0777C, the Commission orders that the list be revived at the time of the next certification for the title so that the appellant can be considered at that time.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

¹ The Commission notes that while the appellant's background is insufficient for removal from the list, it may be sufficient cause to be bypassed for appointment under the Rule of Three. *See N.J.A.C.* 4A:4-4.8.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 18TH DAY OF DECEMBER, 2024

Allison Chris Myers

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Acting Chair
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