



STATE OF NEW JERSEY

In the Matter of Timothy Friel,
Fire Fighter (M2201D), Atlantic City

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

CSC Docket No. 2024-1899

List Removal Appeal

ISSUED: July 24, 2024 (PS)

Timothy Friel, represented by Louis M. Barbone, Esq., appeals the decision to remove his name from the Fire Fighter (M2201D), Atlantic City, eligible list on the basis of an unsatisfactory driving record.

The appellant took the open competitive examination for Fire Fighter (M2201D), which had an August 31, 2022, closing date, achieved a passing score, and was ranked on the subsequent eligible list. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he had an unsatisfactory driving record. Specifically, the appointing authority asserted that the appellant's driving record reflected the following violations: operation of a motor vehicle under the influence on December 11, 2018; and operation of a motor vehicle under the influence on June 21, 2022. It also indicated he had his license suspended for periods of time for both violations.

On appeal, the appellant explains that he has been a competent, industrious public servant for over 20 years as he initially served in Brigantine as a lifeguard beginning June of 2003. He asserts that he holds a certification as a Fire Fighter as well as a certification as an Emergency Medical Technician and has attained both an associates and bachelor's degree. He adds that his rejection and removal from the list stems from two traffic violations for the offense of driving while intoxicated in 2018 and 2021. Further, he adds that he suffered two suspensions of his driving privileges in December 2018 and June 2022, but he was restored and in good standing with his driving privileges as of June 22, 2023. He indicates that he has proven complete rehabilitation

since he commenced impatient treatment October 2021 and more importantly has a proven record of impeccable ability as a Fire Fighter for over three years in Margate. He provides two recommendations, one from a Fire Chief and one from a Principal of the school where he works.

In response, the appointing authority, represented by Steven S. Glickman, Esq., submitted the appellant's Certified Abstract of Driver History Record (Driver's Abstract) and the relevant portions of his pre-employment application. The appointing authority noted that the appellant had the following violations: operation of a motor vehicle under the influence in 2018 and operation of a motor vehicle under the influence in June 2022; and having his license suspended for both infractions.

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 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. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions 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 this matter, the appointing authority had a valid reason for removing the appellant's name from the list. Specifically, the appellant's violations for operation of a motor vehicle under the influence in 2018 and 2022 are of signification concern. The appellant's ability to drive a vehicle in a safe manner is not the main issue in determining whether he should remain eligible to be a Fire Fighter. These violations and show disregard for the State laws and the exercise of poor judgment. The appellant has indicated that his license is currently in good standing as of June 23, 2023, and he has been serving in Margate as a Fire Fighter for over three years. Regardless, and notwithstanding the appellants attempts to address his apparent issues, which is commendable, these actions show a pattern of disregard for the law and questionable judgment on his part. Such qualities are unacceptable for an individual seeking a position as a Fire Fighter. Finally, as these infractions occurred in close proximity to the closing date of the examination, his more recent

“rehabilitation” is not enough to overcome his infractions, and Atlantic City did not abuse its discretion in determining that such a record was detrimental to considering him for appointment and supported its request to remove him from the list.¹ In this regard, Fire Fighters, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. *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). The public expects Fire Fighters to present a personal background that exhibits respect for the law and rules.


Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Fire Fighter (M2201D), Atlantic City, eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

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 24TH DAY OF JULY, 2024



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¹ Moreover, it is concerning that the appellant argues that he is “rehabilitated” based, in part, on his October 2021 treatment, yet his most recent infraction was in **June 2022**.

c: Louis M. Barbone, Esq.
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Division of Human Resource Information Services
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