



STATE OF NEW JERSEY

In the Matter of Antonio Aversa,
Fire Fighter (M2201D), Atlantic City

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

CSC Docket No. 2024-1935

List Removal Appeal

ISSUED: July 3, 2024 (PS)

Antonio Aversa, represented by Arthur J. Murray, 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 records reflected the following violations, among others: operating under influence of liquor or drugs, unsafe operation of vehicle; careless driving; use of hand-held wireless phone; fail to possess driver's license; leaving the scene of accident involving property damage; and failure to report accident. In addition, he was arrested on October 24, 2017, for Urinating in Public and was found guilty.

On appeal, the appellant explains his driving record. He asserts that in 2018, he was only 22 years old when his license was suspended for three months due to the DUI. He explains that he turned his life around after the DUI and is striving to be a better man each day. Further, he takes full accountability for his actions regarding his unsatisfactory driving record in this matter and is now more responsible. He notes that he was at a friend's house waiting for him to get home and urinated in the bushes in a very secluded area. He knows this was wrong and paid the \$200 ticket the next day. He concludes that he had learned his lesson and is now more mature.

In response, the appointing authority, represented by Steve 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 numerous violations within the past 10 years. Additionally, it indicated that the records show the appellant's driving violations include driving under the influence in October 2018. Furthermore, in October 2017 the appellant was found guilty of Urinating in Public which would be cause for termination if he were a Fire Fighter with the City.

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. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for public safety titles based on their driving records if such a record demonstrates a sufficiently unsatisfactory background.

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 has numerous violations, which include, but are not limited to: operating under influence of liquor or drugs; careless driving; leaving the scene of an accident involving property damage; and failure to report accident. In addition, he was arrested on October 24, 2017, for Urinating in Public and was found guilty. 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 charge for urinating in public show disregard for the State laws and the exercise of poor judgment. The appellant has offered explanations for these incidences as "all of my violations are 7-10 years old when I was younger just trying to figure life out". He claims to have turned his life around after the DUI in 2018 and states he is now a better man. Even if the Commission were to accept the appellant's explanation regarding his violations, it would not account for the fact that the appellant accrued numerous violations in a short period of time. 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. 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 3RD DAY OF JULY, 2024



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Arthur J. Murray, Esq.
Steve Glickman
Division of Human Resource Information Services
Records Center