

<b>Coyle v City of New York Civ. Serv. Commn.</b>
2021 NY Slip Op 30171(U)
January 21, 2021
Supreme Court, New York County
Docket Number: 156131/2020
Judge: Carol R. Edmead
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. CAROL R. EDMEAD PART IAS MOTION 35EFM**

*Justice*

-----X

ROBERT COYLE,

Plaintiff,

- v -

CITY OF NEW YORK CIVIL SERVICE COMMISSION,

Defendant.

-----X

INDEX NO. 156131/2020  
MOTION DATE 08/18/2020  
MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Upon the foregoing documents, it is

ADJUDGED that the petition for relief, pursuant to CPLR Article 78, of petitioner Robert J. Coyle (motion sequence number 001) is denied; and it is further

ORDERED that the cross motion, pursuant to CPLR 3211, of the respondent City of New York Civil Service Commission (motion sequence number 001) is granted, and this proceeding is dismissed; and it is further

ORDERED that counsel for respondent shall serve a copy of this order, along with Notice of Entry, on all parties within twenty (20) days.

In this Article 78 proceeding, petitioner Robert J. Coyle (Coyle) seeks a judgment to overturn an order of the respondent City of New York Civil Service Commission (CSC) that upheld a decision by the non-party New York City Police Department (NYPD) to disqualify Coyle from employment, and the CSC cross-moves to dismiss Coyle's petition (together, motion sequence number 001). For the following reasons, the petition is denied, the cross motion is granted, and this proceeding is dismissed.

### FACTS

Coyle is an applicant for employment with the NYPD. In September 2014, Coyle took Civil Service Examination Number 5306 to apply for a position as an NYPD Police Officer, and was later assigned number 469 on the list of passing applicants. *See* verified petition, exhibit B. Pursuant to the terms of the "notice of examination" (NOE) for exam number 5306, the NYPD subsequently conducted a "character and background" investigation into Coyle. *See* notice of cross motion, exhibit 17. That investigation disclosed information on Coyle's arrest record and driving record which the NYPD determined disqualified him from employment as a police officer on character grounds. *Id.*, exhibits 3, 11-16. As a result, on June 25, 2019, the NYPD sent Coyle a "notice of proposed disqualification" indicating that it had found him unqualified for the position of police officer, and inviting him to submit further documentation to the NYPD's Character Assessment Division to challenge his disqualification. *Id.*, exhibit 8. Coyle did so; however, on July 31, 2019, the NYPD nevertheless issued a "notice of disqualification" that rejected Coyle's application for employment. *Id.*, exhibits 6-7. Coyle then appealed the NYPD's notice of disqualification to the CSC on August 5, 2019, after which the CSC accepted submissions from both Coyle and the NYPD. *Id.*, exhibits 2-5. On February 21, 2020, the CSC

issued a decision that denied Coyle's administrative appeal and upheld his disqualification (the CSC decision). *Id.*, exhibit 1. The CSC decision stated as follows:

“[Coyle] (‘Appellant’) appealed from a determination of the [NYPD] finding Appellant not qualified for the position of Police Officer, Exam No. 5306, for failure to establish the requisite character for the position as outlined in the [NOE]. Appellant appealed the disqualification to the [CSC] on August 5, 2019, and NYPD submitted its report articulating the basis of its determination on October 25, 2019.

“The [CSC] has carefully reviewed the entire record and considered the arguments presented by both parties. The [CSC] incorporates [the] NYPD's October 25, 2019 report in this decision, and concludes that the record supports Appellant's disqualification. Accordingly, the determination finding Appellant disqualified is hereby affirmed.”

*Id.*, exhibit 1.

Coyle thereafter commenced this Article 78 proceeding on August 5, 2020. *See* verified petition. As was previously observed, Coyle did not include the NYPD as a respondent. *Id.* However, his petition did request orders that the court vacate the NYPD's notice of disqualification and that he be admitted into the next available Police Academy class, as well as awards of “back pay” and damages for “emotional distress.” *Id.* These items may be fairly described as relief in the nature of mandamus and requests for money damages. Rather than file an answer, the CSC cross-moved to dismiss Coyle's petition on November 6, 2020. *See* notice of cross motion. The matter is now fully submitted (motion sequence number 001).

#### DISCUSSION

At the outset, the court notes that the CSC's first argument is that Coyle's Article 78 petition should be dismissed because he failed to join a necessary party - i.e., the NYPD - in violation of CPLR 1001. *See* respondent's mem of law at 11-12. This argument is not unpersuasive. *See e.g., Matter of Cabrera v City of New York Civ. Serv. Commn.*, 181 AD3d 540, 541 (1<sup>st</sup> Dept 2020) (Department of Corrections [DOC] was a necessary party to an Article 78 proceeding commenced by a terminated corrections officer because “petitioner sought relief

against the DOC, and the DOC might have been inequitably affected by a judgment in the proceeding”). However, it is unnecessary for the court to reach this issue because Coyle’s petition fails on the merits against the CSC, as will be discussed below.

In an Article 78 proceeding, the court’s role is to determine whether the facts before the administrative agency demonstrate that a challenged agency determination had a rational basis in the record, or whether it was an arbitrary and capricious ruling. *See Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222 (1974); *Matter of E.G.A. Assoc. v New York State Div. of Hous. & Community Renewal*, 232 AD2d 302 (1<sup>st</sup> Dept 1996). An administrative determination will only be found arbitrary and capricious if it is “without sound basis in reason, and in disregard of the facts.” *Matter of Century Operating Corp. v Popolizio*, 60 NY2d 483, 488 (1983), citing *Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d at 231. However, if there is a rational basis for the agency’s determination, there can be no judicial interference. *Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d at 231-232.

Here, the CSC decision adopted the NYPD’s finding that the documentary evidence demonstrated that Coyle failed “to establish the requisite character for the position as outlined in the [NOE].” *See* notice of cross motion, exhibit 1. The relevant portion of the NOE provided as follows:

“Character and Background: Proof of good character and satisfactory background will be absolute prerequisites to appointment. The following are among the factors which would ordinarily be cause for disqualification: (a) *arrest record or conviction of an offense, the nature of which indicates lack of good moral character or disposition towards violence or disorder*; (b) repeated arrests or convictions of an offense, where such convictions or arrests indicate a disrespect for the law; (c) discharge from employment, where such

discharge indicates poor behavior or an inability to adjust to discipline; (d) dishonorable discharge from the Armed Forces; and (c) conviction of petit larceny. *In accordance with provisions of law, persons convicted of a felony or domestic violence misdemeanor are not eligible for appointment to the title of Police Officer.*” *Id.*, exhibit 17 (emphasis added). Coyle’s arrest record, which the CSC reviewed, disclosed that he had been arrested for: 1) domestic violence/assault on December 5, 2013; 2) improper behavior/disorderly conduct (public urination) on June 7, 2012; and 3) operation of a vehicle while in possession of a narcotic on August 26, 2008. *Id.*, exhibit 3. The CSC decision adopted the NYPD’s finding that those arrests described offenses listed in the NOE which preclude a finding of good character, and mandate that an applicant be disqualified from employment as a police officer. *Id.*, exhibit 17. The Appellate Division, First Department, acknowledges that the CSC’s broad discretion to make findings related to NYPD applicants’ character, which includes the authority to disqualify applicants based on their arrest records. *See e.g., Matter of Sokol v New York City Civ. Serv. Commn.*, 169 AD3d 552, 552-553 (1<sup>st</sup> Dept 2019), citing *Matter of Smith v City of New York*, 228 AD2d 381, 383 (1<sup>st</sup> Dept 1996); *Matter of Carchietta v Department of Personnel of City of N.Y.*, 172 AD2d 304, 305 (1<sup>st</sup> Dept 1991). Accordingly, the court finds that the CSC acted properly and within its legal discretion in adopting the NYPD’s findings regarding Coyle’s insufficient character. The court also finds that Coyle’s arrest record afforded adequate evidentiary support for the NYPD’s character findings. Neither Coyle’s petition nor his reply papers explain how it was irrational to conclude from his arrest record that he had failed to satisfy the “character and background” section of the NOE. It was not irrational to do so. Instead, the court concludes that there was a rational basis in the administrative record to support the CSC decision. Consequently, the court finds that Coyle has failed to establish that the CSC decision was an arbitrary and capricious ruling, and that there are, thus, no grounds upon which to grant his Article 78 petition. *Matter of Pell v Board of Educ. of Union Free*

School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County, 34 NY2d at 231-232.

The CSC's cross motion requests the court to dismiss Coyle's petition for failure to state a cause of action, pursuant to CPLR 3211 (a) (7). See respondent's mem of law at 12-20. Since the court has found that Coyle's petition fails as a matter of law, the court also finds that the CSC's cross motion should be granted, and that this Article 78 proceeding should be dismissed.

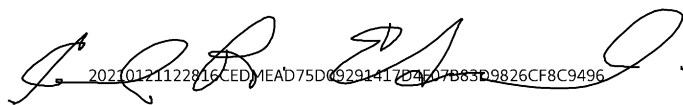
CONCLUSION

ACCORDINGLY, for the foregoing reasons it is hereby

ADJUDGED that the petition for relief, pursuant to CPLR Article 78, of petitioner Robert J. Coyle (motion sequence number 001) is denied; and it is further

ORDERED that the cross motion, pursuant to CPLR 3211, of the respondent City of New York Civil Service Commission (motion sequence number 001) is granted, and this proceeding is dismissed; and it is further

ORDERED that counsel for respondent shall serve a copy of this order, along with Notice of Entry, on all parties within twenty (20) days.

  
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CAROL R. EDMED, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	REFERENCE
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