

	:	STATE OF NEW JERSEY
	:	
	:	FINAL ADMINISTRATIVE
	:	ACTION
In the Matter of	:	OF THE
M. T., Department of Corrections,	:	CIVIL SERVICE COMMISSION
Correction Officer Recruit (S9987M)	:	
	:	
	:	Medical Examiners Panel Appeal
CSC Docket No. 2013-1724	:	
	:	

ISSUED (EG) ~~AD~~ 15 2013

M. T. appeals her rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove her name from the eligible list for Correction Officer Recruit (S9987M) on the basis of medical unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Examiners Panel on June 12, 2013, which rendered the attached report and recommendation on July 11, 2013. The appellant and her relatives C. T. and P. S. were present at the meeting. There was no representative for the Department of Corrections present. No exceptions were filed by the parties.

N.J.A.C. 4A:4-6.5 provides for the Civil Service Commission (Commission) to utilize the expertise of a Medical Examiners Panel to make a report and recommendation on medical disqualification issues. The Panel is composed of medical professionals, all of whom are faculty and practitioners of the former New Jersey Medical School (University of Medicine and Dentistry of New Jersey) now Rutgers Biomedical and Health Sciences.

In this case, the Medical Examiners Panel's Chairman, Lawrence D. Budnick, MD, Director of Occupational Medicine Service and Associate Professor of Medicine, Rutgers Biomedical and Health Sciences, requested a medical specialist to perform a chart review and to make findings and recommendations regarding appellant's medical fitness for the job in question.

The report by the Medical Examiners Panel discusses all submitted evaluations. The Panel, based on the evaluation of submitted information and the medical consultant's review, found, with a reasonable degree of medical certainty, that appellant has no significant visual disease, impairment or functional limitation

that would limit her ability to perform the essential functions or cause a direct threat to herself or others as a Correction Officer Recruit. The Panel found that appellant was physically capable to undergo physical training and to perform the essential functions of the job. Therefore, it recommended that the appellant's name be restored to the subject eligible list.

Having considered the record and the Medical Examiners Panel's report and recommendation issued thereon and having made an independent evaluation of same, the Commission accepted and adopted the findings and conclusions as contained in the attached Medical Examiners Panel's report and recommendation.

It is noted that the Correction Officer Recruit (S9987M) eligible list expired on June 9, 2013.

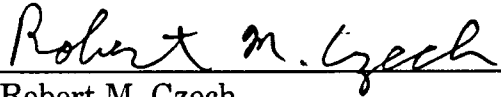
ORDER

The Commission finds that the appointing authority has not met its burden of proof that M. T. is medically unfit to perform effectively the duties of a Correction Officer Recruit and, therefore, the Commission orders that her name be restored to and the subject eligible list be revived. Absent any disqualification issues ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans With Disabilities Act (ADA), 42 U.S.C.A. sec. 12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also*, the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examinations* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon successful completion of her working test period, the Commission orders that appellant be granted a retroactive date of appointment to the date she would have been appointed if her name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION
THE 10TH DAY OF NOVEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
PO Box 312
Trenton, New Jersey 08625-0312

Attachments

c: M. T.
Jennifer Rodriguez, Dept. of Corrections
Kelly Glenn