



Dr. Kanen opined that the appellant appears to be able to create and sustain positive relationships. However, the appellant did endorse some items which suggested that he may have some difficulty controlling his anger although there is nothing to indicate this anger has ever been acted out at his place of employment or in the community. He did report on interview that he had to restrain some inmates and that he had been physically assaulted by an inmate. Dr. Kanen noted that the appellant reported no abnormal levels of anxiety or phobias or irrational concerns which would interfere with his functioning as a Police Officer. The appellant did not report a history of abnormal or paranoid thinking and he is able to distinguish between fantasy and reality.

Dr. Kanen did find that the testing data suggested that the appellant may have some difficulties consistently fulfilling his responsibilities and meeting expectations. However, Dr. Kanen did not find any evidence of this in the appellant's work history. There was no evidence of time or attendance problems and the appellant even received commendations while employed as a Correction Officer. Dr. Kanen opined that this was "an example of how a personality measure may misrepresent the individual. He has received commendations at work." Dr. Kanen further indicated that the appellant is not likely to engage in a pattern of impulsive behavior.

Dr. Kanen concluded that there were no psychopathology or personality problems that would interfere with work performance. Further, Dr. Kanen opined that the appellant had excellent experience as a Correction Officer. Dr. Kanen found the appellant to be psychologically suitable for employment as a Police Officer and has so recommended.

## CONCLUSION

Having considered the record and the Independent Psychological Report and Recommendation issued thereon, and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the attached Independent Psychological Report and Recommendation. The Civil Service Commission has reviewed the job specification for this title and the duties and abilities encompassed therein and found that the psychological traits which were identified and supported by test procedures and the behavioral record do not relate adversely to the appellant's ability to effectively perform the duties of the title. Having considered the record and the Independent Psychological Report and Recommendation issued thereon, and having made an independent evaluation of same, the Commission finds no compelling reason to deny the appellant the opportunity to attend the training academy and to serve as a Police Officer.

**ORDER**

The Civil Service Commission finds that the appointing authority has not met its burden of proof that J.D. is psychologically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that his name be restored to the subject eligible list.\* Absent any disqualification issue 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. § 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 Examination* (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 the successful completion of his working test period, the Commission orders that appellant be granted a retroactive date of appointment to the date he would have been appointed if his 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 this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 23RD DAY OF NOVEMBER, 2016



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Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence:

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

Attachment

c: J.D.  
John D. Feeley, Esq.  
Richard J. Sheola  
Eric M. Bernstein, Esq.  
Kelly Glenn