



B-30

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Rashonda Tinsley, et al., Parole Officer Recruit (S0566R), Statewide

Administrative Appeals

CSC Docket Nos. 2017-2447, et al.

ISSUED: APR 21 2017 (DASV)

Rashonda Tinsley, Angelica Richardson, David Culbert, Dustin Wunschel, and Urshala Herald appeal their non-appointments from the Parole Officer Recruit (S0566R), Statewide, eligible list. Since the appeals involve similar issues, they have been consolidated.

By way of background, the appellants appeared on the Parole Officer Recruit (S0566R), Statewide, eligible list, which promulgated on May 8, 2014 and expired on March 29, 2017. The appellants' names were certified on October 25, 2016, which was the last certification of the eligible list.¹ However, the appointing authority requested the cancellation of the certification and advised the appellants that due to unforeseen budgetary issues, it was rescinding its "contingent offer of employment" for Parole Officer Recruit.

On appeal, the appellants challenge the cancellation of the certification. They indicate that they passed both their psychological and medical examinations and should have begun employment on January 23, 2017, which was the date scheduled for the next academy class. The appellants request a revival and an extension of the subject eligible list so that they may have an opportunity to be appointed.

¹ Tinsley, Richardson, and Herald had been appointed from an earlier certification of the Parole Officer Recruit (S0566R), Statewide, eligible list. However, agency records indicate that they resigned their positions and their names were placed back on the eligible list and certified on October 25, 2016.

In response, the appointing authority confirms that the appellants completed preemployment processing and were given conditional offers of employment by virtue of being administered psychological and medical examinations. They passed these examinations. However, a week before the actual employment start date of the appellants, the appointing authority became aware of a significant budgetary shortage. Therefore, the appointing authority states that it rescinded the offers of employment and requested cancellation of the certification.

It is noted that the new Parole Officer Recruit (S1000U), Statewide, eligible list promulgated on March 30, 2017 and expires on March 29, 2019. A certification of the list has not been issued. The appointing authority now requests permission to process the five appellants for employment. It also states that two other individuals, Patrick Erwin² and Beverly Bright, were similarly situated and given conditional offers of employment. Accordingly, the appointing authority would like to consider these seven individuals, for prospective appointment, before utilizing the Parole Officer Recruit (S1000U), Statewide, eligible list.

CONCLUSION

Initially, it is noted that pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C.A. sec. 12112(d)(3), no medical or psychological examination may be conducted prior to rendering a conditional offer of employment. *See also*, the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examinations* (October 10, 1995). Those guidelines state, in pertinent part, that in order for a conditional offer of employment to be "real," the employer is presumed to have evaluated all information that is known or should have reasonably been known prior to rendering the conditional offer of employment. This requirement is intended to ensure that the candidate's possible hidden disability or prior history of disability is not considered before the employer examines all of the relevant non-medical information.

In the present case, although the appellants were administered psychological and medical examinations and passed, it is clear that they were not wrongfully denied employment because of a disability. Rather, a budgetary issue was the reason for their non-appointments and for the cancellation of the subject certification. Thus, given the foregoing and because no one from the certification was appointed, mandated appointments of the appellants are not justified. Nonetheless, the fact remains that the appellants successfully passed all phases of recruitment at the time of their certification. They request that the subject eligible list be revived and extended for an opportunity to be appointed. Further, the appointing authority is willing to appoint all seven similarly situated individuals. Therefore, under these circumstances, it is appropriate to revive the Parole Officer

² Erwin is a veteran and the other six individuals are not veterans.

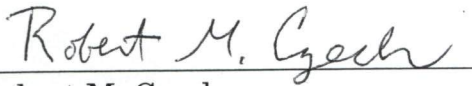
Recruit (S0566R), Statewide, eligible list and certify the names of the appellants, Erwin, and Bright in the proper order of their previous rankings, for prospective appointment only. Should a certification of the Parole Officer Recruit (S1000U), Statewide, eligible list be issued prior to the issuance of this decision, the names of these seven individuals will head that certification.

ORDER

Therefore, it is ordered that these appeals be granted in part. It is further ordered that the Parole Officer Recruit (S0566R), Statewide, eligible list be revived and the names of Rashonda Tinsley, Angelica Richardson, David Culbert, Dustin Wunschel, Urshala Herald, Patrick Erwin, and Beverly Bright be certified for a Parole Officer Recruit position, for prospective appointment only, in accordance with this decision.

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 19TH DAY OF APRIL, 2017



Robert M. Czech
Chairperson
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c: Rashonda Tinsley (2017-2447)
Angelica Richardson (2017-2490)
David Culbert (2017-2665)
Dustin Wunschel (2017-2689)
Urshala Herald (2017-2716)
Patrick Erwin
Beverly Bright
Penny Thorpe
Kelly Glenn