



STATE OF NEW JERSEY

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

In the Matter of D.A.A., Correction
Officer Recruit (S9988R),
Department of Corrections

CSC Docket No. 2016-3247

Medical Review Panel Appeal

ISSUED: April 11, 2018 (BS)

D.A.A., represented by Ricardo Gonzalez, Esq., appeals his rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove his name from the eligible list for Correction Officer Recruit (S9988R) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on March 29, 2017, which rendered the attached report and recommendation on March 29, 2017. Exceptions were filed by the appointing authority.

The report by the Medical Review Panel discusses all submitted evaluations. It notes that Dr. Rachel Safran (evaluator on behalf of the appointing authority) carried out a psychological evaluation of the appellant and characterized the appellant as being evasive and defensive throughout the interview and written testing. The appellant demonstrated significant problems, including impulse dyscontrol, poor dutifulness, and poor integrity, which are evidenced across his employment, legal, and educational histories. Specifically, Dr. Safran noted that the appellant was terminated from the Police Academy after being arrested for a DUI in January 2015. Dr. Safran further noted that the appellant had a very poor driving record in general with numerous moving violations and three license suspensions, one of which he failed to disclose. Psychological test data supported Dr. Safran's conclusions and she failed to recommend him for appointment.

Dr. John Rotondi (evaluator on behalf of the appellant) carried out a psychological evaluation of the appellant and he noted that the appellant scored

above average on the Wonderlic Personnel Test as compared to the population of Correction Officer candidates. Further, Dr. Rotundi opined that it was noteworthy that the appellant was evaluated by the Bloomfield Police Department in 2014 and was recommended for appointment as a Police Officer. Dr. Rotundi could see no reason to deny the appellant appointment and opined that he was psychologically fit to serve as a Correction Officer Recruit.

The evaluators on behalf of the appellant and the appointing authority reached differing conclusions and recommendations. The Panel concluded that the negative recommendation finds support in the appellant's DUI, poor driving record, work history, dutifulness, and lack of integrity. The appellant answered all of the Panel's questions regarding these issues. With regard to the DUI, the appellant stated that he had gone out to celebrate with other cadets from the Bloomfield Police Training academy class and proceeded to drive home after "3 or 4 drinks." The appellant admitted he had made a bad decision and that he has abstained from alcohol since. The appellant has not had any moving violations or parking tickets since and currently has no points on his license. The Panel asked the appellant about two other suspensions on his record, one for an unpaid surcharge and one for an expired registration. The appellant took responsibility for his DUI but indicated he did not receive any notices concerning the surcharge. With regard to nonpayment of registration, he noted he was careless and did not notice that the registration had expired. The Panel noted that the appellant's credit was in good standing and that he recently was able to purchase an auto body business. The Panel recommended that the appellant's name be reinstated to the subject eligible list.

In its exceptions, filed on the appointing authority's behalf by its evaluator, Dr. Matthew Guller,¹ noted that the appellant was convicted of DUI only 13 months prior to his psychological evaluation to become a Correction Officer Recruit. Additionally, although the Panel accepted the appellant's explanation that he had consumed "three or four" drinks, Dr. Guller pointed out that this is inconsistent with his blood alcohol content at the time of his arrest, which is suggestive of having more than "three or four" drinks. Dr. Guller further pointed out that the appellant's DUI arrest occurred while he was attending the Police Academy, a time when a Police Recruit "should be especially careful to follow all rules and regulations and to refrain from questionable behavior." Dr. Guller found this behavior "highly concerning" in that he disregarded rules and safety. He offered that there is also a strong possibility the appellant will engage in this behavior again as the rate of recidivism for DUI has been estimated to be 40%. In addition to the DUI, the appellant has a history of exhibiting questionable judgment and impulsivity, which includes 12 moving violations since 2009 and an arrest for

¹ Dr. Matthew Guller, J.D., Ph.D., ABPP, Board Certified in Police and Public Safety Psychology, and Licensed New Jersey Psychologist is a Managing Partner at the Institute of Forensic Psychology, psychological evaluators for the appointing authority.

assault. Although he told the Panel that he had completely abstained from drinking, he noted in his paperwork during the evaluation and his interview with Dr. Safran that he had drunk in the prior 12 month period. The appointing authority maintains that the appellant was highly defensive and not forthcoming during its evaluation and in his reporting to the Panel. The appointing authority argues that the Civil Service Commission (Commission) should not uphold the Panel's report and recommendation because significant concerns remain in regards to the appellant's (1) potential future substance misuse; (2) impulsivity and/or poor judgment; (3) inattention to safety; (4) disregard for rules and regulations, and (5) dishonesty in his reporting.

CONCLUSION

The Class Specification for Correction Officer Recruit is the official job description for such State positions within the civil service system. According to the specification, an Officer is involved in providing appropriate care and custody of a designated group of inmates. These Officers must strictly follow rules, regulations, policies and other operational procedures of that institution. Examples of work include: encouraging inmates toward complete social rehabilitation; patrolling assigned areas and reporting unusual incidents immediately; preventing disturbances and escapes; maintaining discipline in areas where there are groups of inmates; ensuring that institution equipment is maintained and kept clean; inspecting all places of possible egress by inmates; finding weapons on inmates or grounds; noting suspicious persons and conditions and taking appropriate actions; and performing investigations and preparing detailed and cohesive reports.

The specification notes the following as required skills and abilities needed to perform the job: the ability to understand, remember and carry out oral and written directions and to learn quickly from written and verbal explanations; the ability to analyze custodial problems, organize work and develop effective work methods; the ability to recognize significant conditions and take proper actions in accordance with prescribed rules; the ability to perform repetitive work without loss of equanimity, patience or courtesy; the ability to remain calm and decisive in emergency situations and to retain emotional stability; the ability to give clear, accurate and explicit directions; and the ability to prepare clear, accurate and informative reports of significant conditions and actions taken.

The Commission has reviewed the report and recommendation of the Medical Review Panel. The Commission notes that the Panel found no pattern of maladaptive behavior and were satisfied that the appellant took responsibility for his DUI and with his self-reporting that he "changed his behavior to include the cessation of drinking alcoholic beverages." However, the Commission finds the appointing authority's exceptions to be persuasive particularly with regard to the recent DUI incident. The Commission is mindful that the recent DUI incident

occurred while the appellant was attending the Police Training Academy and this incident is indicative of extremely bad judgment. An individual attending the police training academy should have a heightened awareness of the importance of rules and regulations and concern for public safety. The appellant's actions did not reflect this. This incident also occurred within 13 months of the appellant's psychological evaluation for the subject position so it is relatively recent. Although the appellant claims to have consumed three or four alcoholic beverages at the time of the incident, the exceptions filed by the appointing authority note that the appellant's blood alcohol content suggests that he consumed more than three or four drinks. The appellant also indicated both on the test data and during Dr. Safron's interview that during the last year, the greatest amount of alcohol he consumed during a single 24-hour period was 3 or 4 beers and 1 mixed drink/shot of alcohol. However, this is in contradiction of his presentation to the Panel at which he stated that he had refrained from consuming alcoholic beverages since the DUI. The Commission has concerns regarding the appellant's veracity and the other issues raised in the appointing authority's exceptions regarding potential future substance misuse, impulsivity and poor judgment, inattention to safety, disregard for rules and regulations, and dishonesty in reporting. For example, he reported 12 moving violations on his driver record, an arrest for assault, and his failure to report a disorderly conduct charge in 2009 provide further evidence of his inconsistent and misleading reporting. Therefore, the Commission is not comfortable ratifying the appellant's fitness to serve as a Correction Officer Recruit.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that D.A.A. is psychologically unfit to perform effectively the duties of a Correction Officer Recruit and, therefore, the Commission orders that his name be removed from the subject eligible list.

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 4TH DAY OF APRIL, 2018



Deirdre L. Webster Cobb
Acting Chairperson, Civil Service Commission

Inquiries
and
Correspondence:

Christopher S. Myers
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
PO Box 312
Trenton, New Jersey 08625-0312

Attachment

c: D.A.A.
Ricardo Gonzalez, Esq.
Veronica Tingle
Kelly Glenn