



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of L.H.,
Police Officer (S9999R), Fairlawn

CSC Docket No. 2016-1163

Medical Review Panel Appeal

ISSUED: April 11, 2018 (BS)

L.H. appeals his rejection as a Police Officer candidate by the Fairlawn Police Department and its request to remove his name from the eligible list for Police Officer (S9999R), Fairlawn on the basis of psychological unfitness to perform effectively the duties of the position.

By way of background, the appellant attended Penn State University from 2009 and withdrew in 2013. Despite withdrawing from college in 2013, the appellant indicated during his initial psychological evaluation on June 15, 2015 with Dr. Lewis Schlosser, the appointing authority's evaluator, that he "walked" in the graduation ceremony in 2014 but never informed his family that he did not earn his degree. In fact, during the initial psychological evaluation, the appellant explained to Dr. Schlosser that everyone he is acquainted with, including his family, believes that he has in fact graduated from college. As the appellant had still not told his family that he had not graduated from college at the time of the June 2015 psychological assessment, coupled with the fact family members, unaware of his actual degree status, attended the graduation ceremony where the appellant took elaborate steps to "walk" and have his name announced during the commencement ceremony, Dr. Schlosser found that the appellant would not be able to handle the stress inherent in a Police Officer position and that the appellant's deception was indicative of poor integrity. Therefore, the appellant was not recommended for employment.

This appeal was referred for independent evaluation by the Civil Service Commission in a decision rendered May 3, 2017, which is attached. The appellant

was evaluated by Dr. Susan Furnari, who rendered the attached Psychological Evaluation and Report on June 3, 2017. Exceptions were filed on behalf of the appointing authority and cross exceptions were filed by the appellant.

The Psychological Evaluation and Report by Dr. Susan Furnari, the Civil Service Commission's independent evaluator, discusses the evaluation procedure and reviews the previous psychological findings relative to the appellant. In addition to reviewing the reports, recommendations and test data submitted by the previous evaluators, Dr. Funari administered the following: PsychEval Personality Questionnaire (Interpretation and Protective Services Report), Clinical Interview, and Review of Records. Dr. Funari characterized the appellant as bright, articulate, persistent, interpersonally warm, respectful, and mannerly. In terms of integrity and truthfulness, Dr. Furnari found the appellant presented a dichotomy. On the one hand, he was goal oriented and worked hard to achieve his goal. But when circumstances were such that he was unable to achieve his goal, he found a way to elude the truth. Despite the incident of dishonesty, albeit it an incident of magnitude, there is nothing else in the appellant's history prior to or since the incident to suggest a lack of integrity. Dr. Funari noted that, other than to his family, the appellant has been totally forthcoming regarding this incident and that he has not attempted to suggest that he holds a college degree from Penn State or any other institution. The appellant has held positions of notable stress such as EMT, positions requiring social skill such as customer care consultant, and good modelling such as Supervisor at the Nittany Lions Inn and Customer Care Trainer at Net-a-Porte Group. The appellant is self-sufficient and self-reliant, is well-spoken, resourceful, and motivated, and has been promoted in his work positions. He had been selected by the Pennsylvania State Police but deferred due to an injury and then relocated back to New Jersey. Dr. Furnari opined that, taken in his entirety, the appellant is a model citizen. Dr. Furnari noted that the appellant follows the law, has contributed to society through volunteer work, is gainfully employed, and pays his bills and taxes. Dr. Furnari further noted that the appellant had compassion, attention to detail, good verbal skills, can think critically, has professional responsibility, and has shown that he is a team player, all traits that make him a good candidate for employment as a Police Officer.

Dr. Funari disagreed with Dr. Schlosser's assessment that the appellant was "nonchalant" about the Penn State issue as the appellant remains uncomfortable, somewhat embarrassed, and unable to disappoint his parents. Additionally, and in contrast to Dr. Schlosser's assessment regarding the appellant's ability to tolerate stress, Dr. Furnari indicated that the opposite to be true in that the appellant tolerated a significant amount of stress in his life including the loss of a significant individual in his life and the loss of his home and family possessions due to fire, and he continued to manage and support himself financially. The fact that he was unable to successfully carry a full college workload simultaneously does not diminish his ability to tolerate stress. In the context of the appellant's life

circumstances, while not to be commended, beyond the fact of this single incident in which the appellant lied to his family about the status of his college education, there is little to suggest that the appellant is short on integrity. Accordingly, Dr. Furnari found the appellant to be psychologically suitable for employment as a Police Officer.

In its exceptions, the appointing authority, represented by Gina L. Anton, Esq., argues that the Commission must not adopt the report and recommendation of Dr. Furnari because her report fails to hold the appellant to the higher standard of conduct expected of candidates for positions in law enforcement. The appointing authority notes that a successful candidate must present with the utmost image of personal integrity at all times which is not the case with this appellant whose past dishonesty is of "magnitude." Although Dr. Furnari compared the appellant's conduct in the "context of life's circumstances," the appointing authority contends that the appellant's life circumstances are "immaterial" in this case and that the evaluation should have instead focused on an analysis of his dishonesty and personal integrity in accordance with the more stringent requirements of law enforcement. Further, Dr. Furnari's report and recommendation fails to contemplate the effect his admitted and ongoing dishonesty will have on his ability to carry out the duties of a Police Officer. The appointing authority asserts that Attorney General Guidelines establish that honesty is an essential function of a Police Officer's position and that truthfulness is monitored in an Officer's personal as well as professional life. The appointing authority asserts that Police Officers have been removed from employment for untruthfulness even in the absence of prior dishonesty or other disciplinary infractions. A disregard of truth renders a Police Officer unworthy "of the trust and responsibility that is necessary to fulfill his obligations as a Police Officer." Further, any dishonesty by a Police Officer renders the Police Officer's testimony unusable in court. The report and recommendation of Dr. Furnari fails to take this into account. The appointing authority maintains that he not only lied to his family about completing his degree requirements, he also planned and executed an elaborate ruse so it appeared that he did graduate. Further, he still has not revealed the truth to his family. This ongoing deception renders the appellant unsuitable for employment as a Police Officer and the appointing authority respectfully requests that the Commission disregard the report and recommendation of its independent evaluator and find the appellant psychologically unsuitable for appointment.

In his cross-exceptions, the appellant asserts that he is a suitable candidate for employment as a Police Officer. The appellant argues that Dr. Kanen found him to be psychologically suitable. The appellant further noted that the Commission disagreed with the Medical Review Panel's report and recommendation that he be disqualified and, instead, ordered that the matter be referred to an independent evaluator. Dr. Furnari, the Commission's independent psychological evaluator, also found him to be psychologically suitable. The appellant notes that he had been

previously found psychologically suitable for employment by the Pennsylvania State Police. The appellant asserts that he follows the law, has respect for rules, has no history of arrests, charges, DWIs, incidences of domestic violence, or disciplinary action from any employers for any reason. The appellant argues that, in its exceptions, the appointing authority relies on citing disciplinary cases which pertain to law enforcement officers who have "willfully exercised a lack of candor" which does not establish why the appellant should be excluded from employment as a Police Officer. Per the appellant, "[a]ny proposition that such cases are predictors" of the appellant's "future behavior is simply unreasonable." The appellant contends that the appointing authority has not maintained its burden of proof in this matter as it has not persuasively disputed the findings of Dr. Kanen or Dr. Furnari. The concerns about the appellant's ability to perform the duties of the position should be alleviated by his performance during the working test period. Therefore, the appellant asserts that he should be restored to the subject eligible list.

CONCLUSION

The Class Specification for the title, Police Officer, is the official job description for such municipal positions within the Civil Service system. The specification lists examples of work and the knowledge, skills and abilities necessary to perform the job. Examples include the ability to find practical ways of dealing with a problem, the ability to effectively use services and equipment, the ability to follow rules, the ability to put up with and handle abuse from a person or group, the ability to take the lead or take charge, knowledge of traffic laws and ordinances, and a willingness to take proper action in preventing potential accidents from occurring.

Police Officers are responsible for their lives, the lives of other officers and the public. In addition, they are entrusted with lethal weapons and are in daily contact with the public. They use and maintain expensive equipment and vehicle(s) and must be able to drive safely as they often transport suspects, witnesses and other officers. A Police Officer performs searches of suspects and crime scenes and is responsible for recording all details associated with such searches. A Police Officer must be capable of responding effectively to a suicidal or homicidal situation or an abusive crowd. The job also involves the performance of routine tasks such as logging calls, recording information, labeling evidence, maintaining surveillance, patrolling assigned areas, performing inventories, maintaining uniforms and cleaning weapons.

The Commission has reviewed the job specification for this title and the duties and abilities encompassed therein and does not agree with Dr. Furnari's, recommendation that the appellant be reinstated to the eligible list. Rather, the Commission finds the exceptions presented by the appointing authority raise legitimate concerns about the appellant's truthfulness and his ability to successfully

perform the duties of a Police Officer in view of the willful, elaborate, and continued deception he has carried out. The Commission found the appellant's cross-exceptions to be less than persuasive in that he failed to address why the ongoing deception he has perpetuated does not violate the public expectation that individuals seeking employment as a Police Officer maintain a higher standard of personal accountability. The Commission is persuaded by the appointing authority's position that a Police Officer who carried out such a deception could be compromised on a witness stand or that perhaps he could even formulate another elaborate deception if circumstances were somehow not to his liking at some point in the future. Indeed, the Commission referred this matter for an independent psychological evaluation because the information in the record and before the Panel could not adequately determine if the appointing authority's disqualification of the appellant based on the psychological evaluation of June 2015 was appropriate. While the appellant may have expressed regret for his actions during the independent assessment conducted after he was rejected by the appointing authority, the extent of his deception regarding graduation from Penn State is more fully fleshed out in Dr. Furnari's report. Specifically, the appellant indicated that he withdrew from college in December 2013, somehow secured a "commencement card" in May 2014 so his mother and her long-time boyfriend, his father and his new wife, and his grandmother could attend the ceremony. The appellant went on to explain that after the ceremony, a small celebration was held and his mother gave him \$100 in a gift card. However, little more than one year later, while in the process of seeking employment as a Police Officer, he continues the deception. Given the magnitude of the deception and the fact that it continues even now, the Commission is not comfortable in ratifying the appellant's fitness to serve as a Police Officer.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that L.H. is psychologically unfit to perform effectively the duties of a Police Officer 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

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