



STATE OF NEW JERSEY

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

In the Matter of M.F.M., Fire Fighter
(M1545T), Kearny

Medical Review Panel Appeal

CSC Docket No. 2018-1429

ISSUED: September 13, 2019 (BS)

M.F.M., represented by Thomas A. Cushane, Esq., appeals his rejection as a Fire Fighter candidate by Kearny and its request to remove his name from the eligible list for Fire Fighter (M1545T) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on October 17, 2018, which rendered the attached report and recommendation on October 21, 2018. Exceptions were filed on behalf of the appellant and cross-exceptions on behalf of the appointing authority.

The report by the Medical Review Panel discusses all submitted evaluations. It notes that Dr. Krista Dettle (evaluator on behalf of the appointing authority), conducted a psychological evaluation of the appellant and characterized the appellant as evidencing poor integrity, impulse control, poor judgment and substance misuse. Test results were reflective of an attempt by the appellant to present himself in an overly favorable light. Also, the Personality Assessment Inventory indicated that the appellant was at a high risk for integrity problems with a mild elevation on the antisocial features scale. Dr. Dettle failed to recommend the appellant for appointment to the subject position.

Dr. Gary Glass (evaluator on behalf of the appellant) carried out a psychiatric evaluation and reviewed the appellant's personal history, including his education,

work, and legal history. Dr. Glass indicated that the appellant's history was consistent as described by Dr. Dettle. The MMPI was defensive but that the profile produced fell within normal limits. Dr. Glass opined that the appellant had been "extremely immature and had developed an early drinking habit." Dr. Glass noted that all of the appellant's legal issues had been alcohol related and further noted that the appellant had been alcohol free for three years with no new legal issues. Dr. Glass described the appellant as "committed to sobriety" who "now presents as a mature young man who has put his problems behind him." Dr. Glass could find no reason why the appellant was not psychologically fit to serve as a Fire Fighter.

The evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. The Panel concluded that the negative recommendation found support in the appellant's history of issues related to integrity, impulse control, judgment, substance use, and a 2015 job termination. Although the appellant's evaluator, Dr. Glass, noted the appellant's history of immaturity and substance use history, he also made note of the appellant's commitment to sobriety and success in that area. The appellant's substance use was also of concern to the Panel but it was of the opinion that the appellant evidenced by his abstinence and dedicated use of his 12-step program. Although the appellant's past use puts him at a higher risk of use in the future, the Panel viewed this as mitigated by his success over the last four years. The Panel opined that his past marijuana/alcohol use is not demonstrable of a current lack of psychological fitness. However, the Panel expressed concerns about the appellant's more recent impulsive act regarding his 2015 termination and his attempts to place this event further in the past than it actually occurred. The appellant's reference to Dr. Dettle as "the young lady," even when corrected regarding her professional status, further demonstrated poor judgment and gender bias. The Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Fire Fighter, indicate that the candidate is psychologically unfit to perform effectively the duties of the position sought, and therefore, the action of the hiring authority should be upheld. The Panel recommended that the appellant be removed from the eligible list.

In his exceptions, the appellant argues that Dr. Dettle's "unsupported, summary conclusions" do not meet the standard for fitness. The appellant asserts that he made inappropriate, impulsive choices as an immature young man and that Dr. Dettle's conclusions are based on incidents and behavior that occurred years ago and the appellant does not deny these incidents or behavior. The appellant has maintained strict sobriety for the past three years and he has repeatedly expressed his regret and contrition. The appellant challenges the validity of Dr. Dettle's testing and characterizes the Panel's report as arbitrary and capricious for its unreasonable accusations levied against the appellant following the October Panel meeting, citing gender bias issues and intentionally misrepresenting the recency of his termination. The appellant contends that the information relied upon by the

appointing authority and the Panel in arriving at their conclusions “must be such as to lead a reasonably cautious mind to the given conclusion.” The appellant argues that the findings of both the appointing authority’s evaluator and the Panel were “arbitrary, capricious, unreasonable, and wholly unsupported by a reasonable examination of the record” and must be rejected.

In its cross exceptions, the appointing authority, represented by H. Thomas Clarke, Esq., argues that although the appellant attempted to downplay his theft of a hard hat in 2015, the Panel was correct to focus on this incident, which was an impulsive act and clear display of poor judgment. When asked by the Panel why he stole the hard hat, the appellant replied that he was not thinking. This response concerned the appointing authority which contends that a Fire Fighter must exhibit sound judgment and clear thinking in stressful situations. Further, the appointing authority argues that The appointing authority further asserts that the appellant’s reference to Dr. Dettle as a “young lady,” even after being interviewed by Dr. Dettle, having the report prepared by Dr. Dettle, and hearing the Panel refer to Dr. Dettle multiple times, and being reminded by the Panel of Dr. Dettle’s professional standing, and shrugging this off as a memory lapse is reflective of someone who is unable to think clearly and apply knowledge in stressful situations. The appointing authority also pointed out the appellant’s drug and alcohol related offenses, substance abuse issues, history of arrests, and other legal difficulties dating back to 2010, including a DUI and arrest for possession of drug paraphernalia in 2014, are very concerning to the appointing authority and demonstrate a very serious pattern of poor judgment and poor integrity, not just when he was young, but as recent as his hearing before the Panel. The appointing authority argues that it cannot risk the same display of poor judgment should the appellant be employed as a Fire Fighter. Accordingly, the appointing authority respectfully requests that the report and recommendation of the Panel be upheld.

CONCLUSION

The Job Specification for the title of Fire Fighter is the official job description for such positions within the civil service system. According to the specification, Fire Fighters are entrusted with the safety and maintenance of expensive equipment and vehicles and are responsible for the lives of the public and other officers with whom they work. Some of the skills and abilities required to perform the job include the ability to work closely with people, including functioning as a team member, to exercise tact or diplomacy and display compassion, understanding and patience, the ability to understand and carry out instructions, and the ability to think clearly and apply knowledge under stressful conditions and to handle more than one task at a time. A Fire Fighter must also be able to follow procedures and perform routine and repetitive tasks and must use sound judgment and logical thinking when responding to many emergency situations. Examples include conducting step-by-step searches of buildings, placing gear in appropriate locations

to expedite response time, performing preparatory operations to ensure delivery of water at a fire, adequately maintaining equipment and administering appropriate treatment to victims at the scene of a fire, e.g. preventing further injury, reducing shock, restoring breathing. The ability to relay and interpret information clearly and accurately is of utmost importance to Fire Fighters as they are required to maintain radio communications with team members during rescue and firefighting operations.

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 relate adversely to the appellant's ability to effectively perform the duties of the title. The Commission does not find the exceptions filed on behalf of the appellant to be persuasive. While it is laudable that the appellant has benefitted from adhering to the rigors of a substance abuse 12-step program for the past three years, the Commission is aware that the appellant's involvement with drugs and alcohol is relatively recent and the possibility of relapse does exist. Further, of particular concern to the Commission is the 2015 incident concerning the theft of a hard hat resulting in the appellant's termination from a job. The Commission notes that the subject Fire Fighter examination closing date was August 31, 2015, which makes this impulsive act very recent and relevant when assessing the appellant's lack of judgment and sound decision making skills. Coupled with the appellant's 2014 DUI and possession of drug paraphernalia conviction and his performance at the Panel meeting, the Commission agrees with the Panel's assessment that the appellant is not a psychologically suitable candidate for employment as a Fire Fighter.

Having considered the record and the Medical Review Panel's report and recommendation issued thereon and the exceptions filed on behalf of the appellant and the appointing authority, and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the attached Medical Review Panel's report and recommendation.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that M.F.M. is psychologically unfit to perform effectively the duties of a Fire Fighter 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 10TH DAY OF SEPTEMBER, 2019

Deirdre L. Webster Cobb

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