



STATE OF NEW JERSEY
FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of J.M, County
Correction Officer (S9999U), Morris
County

Medical Review Panel Appeal

CSC Docket No. 2018-2402

ISSUED: February 18, 2020 (BS)

J.M., represented by Brian J. Manetta, Esq., appeals his rejection as a County Correction Officer candidate by Morris County and its request to remove his name from the eligible list for County Correction Officer (S9999U) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on November 29, 2018, which rendered the attached report and recommendation on December 11, 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 the report of Dr. Guillermo Gallegos (evaluator on behalf of the appointing authority) characterized the appellant as having a history of being issued four summonses: illegal dumping at age 20; falsifying a deer tag and hunting too close to a structure at age 23; and noise ordinance violation at age 22. Dr. Gallegos noted that testing data revealed that the appellant had scored high on Antisocial Activities and Impulsivity Scales. Additionally, the appellant provided test responses on the Personality Assessment Inventory which indicated that he was a "high risk" for having job performance problems, integrity problems, and anger management problems. Dr. Gallegos failed to recommend the appellant for appointment.

Dr. Nicole J. Rafanello (evaluator on behalf of the appellant) carried out a psychological evaluation of the appellant and found the appellant's behavioral history as not rising to the threshold of Antisocial Behavior or emotional dysregulation. Dr. Rafanello characterized the appellant as being free from symptoms of mental or emotional impairment that could hinder his abilities to safely carry out the functions of the subject position. Dr. Rafanello recommended the appellant for hire.

The evaluators on behalf of the appellant and the appointing authority reached differing conclusions and recommendations. The Panel expressed concerns about the appellant's history of violations of statutes and rules as well as potential antisocial traits or behaviors. Of additional concern was the appellant's report that he had been taking Zoloft following his graduation from college to help cope with what his psychiatrist described as life's normal anxieties. The appellant had stopped taking the medication a year prior to the Panel meeting and believes that he no longer needs it. Near the conclusion of the meeting, the Panel asked if the appellant had any interactions with law enforcement since he completed his evaluations. The appellant stated that he had not. It had been brought to the Panel's attention that an incident had occurred on March 1, 2018. When pressed for details, the appellant stated that he did not have any physical interaction with Police or the establishment's employees where a friend was involved in a fight. The Panel noted that the appellant was not forthcoming about the incident. In conjunction with other instances of poor judgment, such as adversarial contacts with law enforcement and not following rules regarding firearm use and deer tagging, his lack of candor about his most recent contact with Police was of great concern to the Panel. Therefore, the Panel collectively concluded that the appellant displayed a lack of honesty in given situations. Given the importance of being honest in interactions with law enforcement personnel and in circumstances such as a Panel meeting, the Panel expressed concerns about the appellant's ability to carry out law enforcement responsibilities in an appropriate manner. Accordingly, the Panel found that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for County Correction Officer, indicate that the candidate is mentally 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 asserts that he was truthful concerning the March 1, 2018 incident. His roommate was the victim of an assault and the appellant had no physical altercation with law enforcement personnel or employees of the establishment where the assault occurred. Despite only five minutes of questioning regarding the incident, the appellant contends that the Panel relied on this incident in reaching its conclusion regarding his suitability. The appellant claims that he did not disclose this incident because it was not an adversarial interaction. The appellant further asserts that his previous summonses, which

were adversarial interactions with law enforcement, did not prevent him from passing a background check or the appointing authority from extending him a conditional offer of employment. The appellant contends that he was honest and forthcoming during the Panel meeting but that he was initially confused by the Panel's line of questioning. He believed that by "interactions," the Panel was asking if he had received any summonses in connection with the incident. He had not. The appellant argues that the Panel made factually inaccurate conclusions regarding the March 1, 2018 incident, he must be allowed to make a full factual record through an evidentiary hearing. In the absence of his reinstatement, the appellant requests that the Civil Service Commission (Commission) order an independent psychological evaluation to establish his psychological suitability for the subject position.

In its cross exceptions, the appointing authority, represented by Stephen E. Trimboli, Esq., Special County Counsel, asserts that the appellant was only confronted with the March 1, 2018 report after he responded negatively to the Panel's inquiry as to whether he had any interactions with law enforcement subsequent to the appointing authority's evaluation and that of Dr. Rafanello. The appellant's assertions to the contrary, the appointing authority argues that the Panel gave appropriate weight to the appellant's untruthfulness in his responses to the Panel's questions. The appointing authority contends that the facts of the March 1, 2018 incident are not the central issue but rather the appellant's lack of candor and dishonesty when questioned about it, including his failure to mention the incident to Dr. Rafanello during her evaluation. The appellant has failed to present any reasons why the Commission should reject the Panel's assessment of his credibility. The appointing authority contends that the appellant should have known when he was applying for a position as a County Correction Officer that he would be required to be honest and truthful at all times. Truthfulness is an essential function of law enforcement officers and individuals have been terminated for making false statements. The appointing authority argues that the appellant, at age 26, already had "a long list of interactions with law enforcement" and, when combined with his lack of candor regarding the most recent incident, should be removed from the subject eligible list.

CONCLUSION

The Job Specification for the title of County Correction Officer is the official job description for such positions within the civil service system. According to the specification, officers are responsible for the presence and conduct of inmates as well as their safety, security and welfare. An officer must be able to cope with crisis situations and to react properly, to follow orders explicitly, to write concise and accurate reports, and to empathize with persons of different backgrounds. Examples of work include: observing inmates in a variety of situations to detect violations of institutional regulations; escorting or transporting individual and

groups of inmates within and outside of the institution; describing incidents of misbehavior in a concise, factual manner; following established policies, regulations and procedures; keeping continual track of the number of inmates in his or her charge; and performing regular checks of security hazards such as broken pipes or windows, locks that were tampered with, unlocked doors, etc.

The 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 finds that the appellant's exceptions do not persuasively dispute the findings and recommendations of the Panel in this regard. The Panel's concerns centered on the appellant's list of interactions with law enforcement, including the March 1, 2018 incident, and agrees with the Panel regarding the appellant's truthfulness, candor, and integrity, all of which are not conducive to an individual who aspires to a successful career in law enforcement. While the appellant contends that the Panel was overly reliant on the March 1, 2018 incident in arriving at its conclusion, the Commission disagrees and finds the latest incident to be merely illustrative of the appellant's past interactions with law enforcement. In this regard, the Commission notes that the Panel conducts an independent review of all of the raw data presented by the parties as well as the raw data and recommendations and conclusions drawn by the various evaluators prior to rendering its own conclusions and recommendations, which are based firmly on the totality of the record presented to it. The Panel's observations regarding the appellant's behavioral history, responses to the various assessment tools, and appearance before the Panel are based on its expertise in the fields of psychology and psychiatry, as well as its experience in evaluating hundreds of appellants.

With regard to the appellant's request for a hearing on this matter, *N.J.A.C.* 4A:4-6.5(g) states in pertinent part that the Commission can either conduct a written record review or submit psychological appeals to the New Jersey Medical Review Panel. The Commission shall review the appeal, including the written report and exceptions, if any, and render a final written decision. *See N.J.A.C.* 4A:4-6.5(h). Hearings are granted only in those limited instances where the Commission determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. *See N.J.A.C.* 4A:2-1.1(d). No material issue of disputed fact has been presented which would require a hearing. *See Belleville v. Department of Civil Service*, 155 *N.J. Super.* 517 (App. Div. 1978). The facts surrounding the March 1, 2018 incident are a matter of record and the Commission agrees with the Panel's conclusions regarding the appellant's presentation before it. In view of the above, having considered the record and the Medical Review Panel's report and recommendation issued thereon and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings

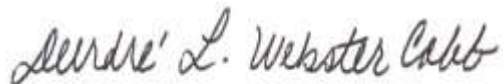
and conclusions as contained in the Medical Review Panel's report and recommendation.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that J.M. is psychologically unfit to perform effectively the duties of a County Correction 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 12TH DAY OF FEBRUARY, 2020



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