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STATE OF NEW JERSEY

DECISION OF THE
CIVIL SERVICE COMMISSION

In the Matter of J.S., Police Officer
(S9999M), Jersey City

CSC Docket No. 2015-1212

Medical Review Panel Appeal

ISSUED: MAR 24 2017 (BS)

J.S., represented by Michael L. Prigoff, Esq. appeals his rejection as a Police Officer candidate by the Jersey City and its request to remove his name from the eligible list for Police Officer (S9999M) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on December 14, 2016 which rendered the attached report and recommendation on December 18, 2016. No exceptions were filed by the parties.

The report by the Medical Review Panel discusses all submitted evaluations. The negative indications related to the appointing authority evaluator's findings are in regard to the appellants cognitive abilities and his history of marginal performance in high school and dropping out for "family reasons;" inconsistencies between the information provided during the interview, the written biographical summary, and the background investigation; and the appellants "limited intellectual resources both in dealing with verbal and non-verbal stimuli." Dr. Guillermo Gallegos, who conducted a psychological evaluation of the appellant on behalf of the appointing authority, concluded that the appellant was not psychologically suitable to be employed as a Police Officer. The appellants evaluator, Dr. Sandra Morrow, conducted a psychological evaluation and did not note any cognitive problems. Dr. Morrow found the appellant "capable of processing information during the interview." Dr. Morrow opined that "in all key areas required of a Police Officer," the appellant "displayed proficiency" and concluded that he was psychologically suitable for the position sought.

The Panel noted that appellant was forthcoming during the meeting and answered its questions in a cooperative manner and did not appear "grossly cognitively impaired." The Panel noted that the appellant showed no signs of overt psychopathology such as psychosis or thought disorder. The Panel was of the opinion that the inconsistencies in reporting were not reflective of any intent on the appellant's part to intentionally deceive the evaluator or hide information. The Panel also did not see these inconsistencies as being reflective of an underlying psychological issue that would serve to disqualify him from the position. Similarly, his behavioral history did not contain any information to suggest that there were any underlying psychological issues. However, the Panel did express concerns regarding whether or not the appellant possessed the cognitive capability to perform the function of the position. The Panel noted that all of the tests conducted were screening tests and the results were inconsistent. Accordingly, the Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police Officer, justified sending the appellant for an independent psychological evaluation. That evaluation should focus on addressing the appellant's cognitive capabilities as noted in the Panel's report.

In his exceptions, the appellant argues that, although Dr. Guller expressed concerns about his cognitive capabilities, both Dr. Morrow and the Panel characterized the appellant as "average." The Panel further found that there were no psychological issues which would preclude the appellant from fulfilling the duties of the position. In spite of this, the Panel concluded, without detailing reasons, that it still had concerns regarding whether or not the appellant had the cognitive capabilities to perform the duties of the position. The appellant argues that the Panel used an incorrect standard of proof in arriving at its recommendation that an independent psychological evaluation be performed. It is the appellant's contention that if the appointing authority's evidence does not establish that he is psychologically unfit for the position, then the appointing authority has not met its burden of proof. Accordingly, the appellant asserts that his appeal should be granted and he should be appointed forthwith with retroactive seniority for promotional and salary step placement.

CONCLUSION

The Civil Service Commission (Commission) has reviewed the report and recommendation of the Medical Review Panel. The Commission notes that the Panel conducts an independent review of the raw data presented by the parties as well as the recommendations and conclusions drawn by the various evaluators and that, in addition to the Panel's own review of the results of the tests administered to the appellant, it also assesses the appellant's presentation before it prior to rendering its own conclusions and recommendations which are based firmly on the

totality of the record presented. The Commission agrees with the Panel's recommendation that greater clarification is needed regarding the appellant's cognitive capabilities to effectively perform the duties of the position. The Commission does not find the appellant's exceptions persuasive in this regard. Specifically, the Commission notes that the Panel pointed out that all of the tests conducted were screening tests and the results were inconsistent. Therefore, the Commission finds it necessary to refer this matter for independent evaluation by a New Jersey licensed psychologist. Such an evaluation should address the areas of concern raised by the Panel.

ORDER

The Civil Service Commission therefore orders that J.S. be administered an independent psychological evaluation. The Commission further orders that it is appropriate in this matter to assess the cost incurred for this evaluation to the appointing authority in the amount of \$530. Prior to the Civil Service Commission's reconsideration of this matter, copies of the independent evaluator's report and recommendation will be sent to all parties with the opportunity to file exceptions and cross exceptions.

J.S. is to contact Dr. Robert Kanen, the Civil Service Commission's independent evaluator, in order to arrange for an appointment within 15 days of the issue date on this order. Dr. Kanen's address is as follows:

Dr. Robert Kanen



If J.S. does not contact Dr. Kanen within the time period noted above, the entire matter will be referred to the Civil Service Commission for final administrative determination and the appellant's lack of pursuit will be noted.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15TH DAY OF MARCH, 2017

A handwritten signature in cursive script, appearing to read "Robert M. Czech".

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence:

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Attachment

c: J.S.
Michael L. Prigoff, Esq.
Stephanie Brown, Asst. Corporation Counsel
Kelly Glenn
Dr. Robert Kanen