



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of K.M., Police Officer
(S9999R), Borough of Fort Lee

CSC Docket No. 2016-4021

Medical Review Panel Appeal

ISSUED: NOV 13 2017 (BS)

K.M., represented by Joseph R. Donahue, Esq., appeals his rejection as a Police Officer candidate by the Borough of Fort Lee Police Department and its request to remove his name from the eligible list for Police Officer (S9999R) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on June 21, 2017, which rendered its report and recommendation on June 21, 2017. Exceptions were filed on behalf of the appellant and cross-exceptions were filed by the appointing authority.

The report by the Medical Review Panel discusses all submitted evaluations. It notes that Dr. Guillermo Gallegos (evaluator on behalf of the appointing authority), conducted a psychological evaluation of the appellant and characterized the appellant as presenting with a number of concerns including problems with emotion dysregulation, poor integrity, and poor judgment. Although initially only reporting three terminations from employment during the assessment, he actually has four, thus raising concerns about his consistency and credibility in reporting. Dr. Gallegos also noted discrepancies in the appellant's disclosures regarding medication and hospitalization. Further, the appellant failed to acknowledge either a domestic dispute and police response to his home in 2014 or his charges in the military during prior evaluations. Dr. Gallegos indicated that, overall, there were several points of data suggestive of emotional dysregulation, and test data suggests a tendency to be impulsive and temperamental. At a minimum, Dr. Gallegos opined, this would portend difficulties with stress tolerance as a Police Officer.

Additionally, of note in the background check is the appellant's use of a Police Officer who is primarily friends with the appellant's wife. When this "reference" was questioned as part of the background investigation, this individual stated that he would not have given his consent had he be consulted first. Although the appellant has appeared to function well in the U.S. Navy, Dr. Gallegos noted that successful military service does not necessarily translate to success as a Police Officer. Police work is less structured than the Navy and work as a Police Officer requires a much higher level of flexibility, interpersonal skills, interpersonal judgment, and emotional regulation. Dr. Gallegos failed to recommend the appellant for appointment to the subject position.

Dr. Susan A. Furnari (evaluator on behalf of the appellant) carried out a psychological evaluation and characterized the appellant as "a man haunted by his past." Dr. Furnari indicated that the appellant feels he is being judged for a behavioral past consistent with ADHD symptomatology and adolescence, where he acted immaturely, impulsively, and perhaps even recklessly. However, as an adult, he presents a sharp contrast in that he has a practical focus, the ability to generate effective solutions to problems, is well-educated, and is able to synthesize information in order to apply it to the task at hand. The appellant is emotionally responsible, respects rules, follows socially acceptable conduct, acts responsibly, and controls his impulses. Dr. Furnari opined that this is clearly demonstrated by the appellant's demeanor and persistence with his custody battle. Dr. Furnari indicated that the appellant is self-disciplined, organized, sensible, and maintains a social presence that suggests confidence and strength. Dr. Furnari noted that the appellant's success in the military contributed to his maturity, ability to function under stress, acceptance of and respect for authority, team orientation, adaptability, and self-direction. Dr. Furnari could find no reason why the appellant was not psychologically fit to serve as a Police Officer.

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 concerns about the appellant's credibility and consistency. Of concern to the Panel, and consistent with the appointing authority's evaluators findings, is the appellant's consistency and credibility. The Panel noted various areas of consistency including his employment/termination history, the psychiatric hospitalization reports, and, of most concern, the appellant's omissions involving police intervention in a domestic dispute. When asked by the Panel why he failed to disclose the latter, the appellant replied that, since he had not assaulted his wife, he did not consider it a domestic violence incident. Although Dr. Furnari characterized the appellant as a man "haunted by his past," the domestic violence incident occurred in 2014, not when he was an adolescent. The Panel noted that the inconsistencies in the appellant's reporting occurred various times while he was being assessed for this position and other law enforcement positions for other hiring appointing authorities through the

Institute for Forensic Psychology (IFP) and all of these instances were recent. The Panel found that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police Officer, 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 asserts that he made full disclosure regarding his psychiatric hospitalization from when he was a freshman in high school. Actual records were not available and that he "provided his best memory of this matter." With regard to the "domestic violence" incident, the appellant asserts that this incident was actually a "domestic dispute." There was no domestic violence as defined under New Jersey law and no charges were filed. The appellant argues that the Panel's concerns regarding this incident were "misplaced."

In its cross-exceptions, the appointing authority, represented by Lesley Sotolongo, Esq., asserted that the Panel was correct in pointing out the inconsistencies in the facts surrounding the incident. Although the appellant's exception is based on whether or not it was a domestic violence incident, the appointing authority agrees with the Panel that the crux of the issue revolved around the appellant's inconsistency and credibility surrounding his reporting of the incident. Additionally, irrespective of whether or not the appellant was previously terminated from various employments, he was inconsistent in reporting his employment history, including but not limited to the number of terminations and the factual circumstances surrounding his past employments. The appointing authority asserts that critical traits of a Police Officer candidate must include integrity, credibility, and consistency. In this regard, the appointing authority concurs with the Panel's assessment that the appellant is not psychologically suited for work as a Police Officer.

CONCLUSION

The Class Specification for 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 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 finds that the appellant's exceptions do not persuasively dispute the findings and recommendations of the Panel in this regard. The Commission concurs with the Panel's concerns which centered on issues of the appellant's integrity, credibility, and consistency, all of which are not conducive to an individual who aspires to a successful career in law enforcement. 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.

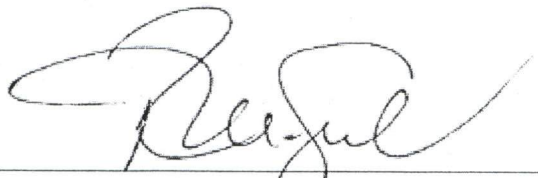
Having considered the record and the Medical Review Panel's report and recommendation issued thereon and the exceptions filed on behalf of the appellant, the cross-exceptions filed on behalf of the appointing authority, and having made an independent evaluation of same, the Civil Service Commission accepted 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 K.M. 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 1ST DAY OF NOVEMBER , 2017



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