



B-33

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

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

CSC Docket No. 2015-551

Medical Review Panel Appeal

ISSUED: JUN 23 2017 (BS)

S.A., represented by Michael L. Prigoff, Esq., appeals his rejection as a Police Officer candidate by 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 referred for independent evaluation by the Civil Service Commission in a decision rendered March 22, 2017, which is attached. The appellant was evaluated by Dr. Robert Kanen, who rendered the attached Psychological Evaluation and Report on May 8, 2017. No exceptions were filed by the parties.

The Psychological Evaluation and Report by Dr. Robert Kanen, 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, letters, recommendations and test data submitted by the previous evaluators, Dr. Kanen administered the following: Clinical Interview/Mental Status Examination; Verbal Comprehension Index of the Wechsler Intelligence Scale, 4<sup>th</sup> edition; and the Inwald Personality Inventory. Dr. Kanen characterized the appellant as functioning within normal ranges and exhibiting no evidence of any psychopathology or personality problems that would interfere with work performance. There are no indications of alcohol or drug problems and he appears to have good control of his impulses. Dr. Kanen indicated that the appellant's verbal comprehension index was in the average range and that



he has the cognitive ability to perform the duties of the position. Dr. Kanen noted that the appellant has a two year degree and maintains stable employment. Although the appellant was involved in three incidents when he was younger, none of the incidents resulted in arrests or charges. Dr. Kanen opined that, since the appellant's psychological evaluation conducted on behalf of the appointing authority was conducted in 2013, and in the interim there have been no incidents, the appellant has maintained a good work ethic, and he appears motivated toward a career in law enforcement. Dr. Kanen found the appellant to be psychologically suitable for employment as a Police Officer.

## CONCLUSION

Having considered the record and the Independent Psychological 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 attached Independent Psychological Report and Recommendation.

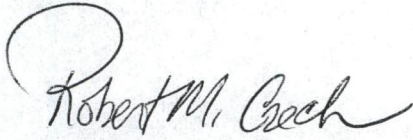
## ORDER

The Civil Service Commission finds that the appointing authority has not met its burden of proof that S.A. is psychologically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that his name be restored to the subject eligible list. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans With Disabilities Act (ADA), 42 U.S.C.A. § 12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also* the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon the successful completion of his working test period, the Commission orders that appellant be granted a retroactive date of appointment to the date he would have been appointed if his name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

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 21ST DAY OF JUNE, 2017



Robert M. Czech  
Chairperson  
Civil Service Commission

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and  
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Attachment

c: S.A.  
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