



STATE OF NEW JERSEY

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

In the Matter of B.H., Sheriff's
Officer (S9999R), Hudson County

CSC Docket No. 2018-519

Medical Review Panel Appeal

ISSUED: November 21, 2018 (BS)

B.H. appeals his rejection as a Sheriff's Officer candidate by the Hudson County Sheriff's Office and its request to remove his name from the eligible list for Sheriff's 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 August 10, 2018, which rendered the attached report and recommendation on August 17, 2018. No exceptions were filed on behalf of the parties.

The report by the Medical Review Panel discusses all submitted evaluations. The test results and procedures and the behavioral record, when viewed in light of the Job Specification for Sheriff's Officer indicate that the applicant is psychologically fit to perform effectively the duties of the position sought, and therefore, the action of the hiring authority should not be upheld. Accordingly, the Panel recommended that the candidate be restored to the eligible list.

CONCLUSION

The Class Specification for the title, Sheriff's Officer, is the official job description for such county positions within the civil service system. According to

the specification, Sheriff's Officers are involved in maintaining order and security in a courtroom, serving court processes, criminal identification, ballistics and investigation, and the apprehension of criminals. Examples of work include: the field and office work necessary to serve and execute warrants, writs, court orders, summonses, subpoenas, and other documents directed to the Sheriff; making arrangements for the sequestering of juries; guarding and transporting prisoners; testifying in court; collecting monies to satisfy legal debts as ordered by the court; taking fingerprints; analyzing, indexing and classifying according to the F.B.I. version of the Henry System; examining bullets and fragments to determine the make and caliber of weapons involved in crimes; testing fired weapons in evidence and comparing test bullets with those on the crime scene; conducting criminal and other special investigations; locating and apprehending violators of the law; conducting classes related to departmental functions; operating a variety of communication equipment; providing security at public functions and county facilities; and conducting search and rescue operations.

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

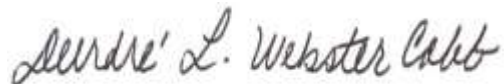
The Civil Service Commission finds that the appointing authority has not met its burden of proof that B.H. is psychologically unfit to perform effectively the duties of a Sheriff's Officer and, therefore, the Commission orders that his name be restored to the subject eligible list. Absent any disqualification 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 June 26, 2017, 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 NOVEMBER, 2018



Deirdre L. Webster Cobb, Chairperson
Civil Service Commission

Inquiries
and
Correspondence:

Christopher S. Myers
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
PO Box 312
Trenton, New Jersey 08625-0312

c: B.H.
Robert J. Pompliano
Kelly Glenn