

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

In the Matter of N.B., Police Officer  
(S9999U), Borough of Fort Lee

CSC Docket No. 2019-312

Medical Review Panel Appeal

**ISSUED:** November 21, 2019 (BS)

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N.B., represented by Robert K. Chewning, 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 (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 May 8, 2019, which rendered its report and recommendation on May 8, 2019. 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. Lewis Schlosser (evaluator on behalf of the appointing authority), conducted a psychological evaluation of the appellant and characterized the appellant as presenting with significant problems including emotional dysregulation and poor stress tolerance. The appellant presented overall as anxious and fidgety, but well-mannered. The appellant reported to Dr. Schlosser that he had been treated for general anxiety disorder and prescribed Zoloft, Klonopin, and Vyvance at that time. Dr. Schlosser noted elevated scores on the Personality Assessment Inventory and COPS-R revealed that the appellant attempted to portray himself in an overly positive light and that he had a reluctance to admit even minor flaws. Dr. Schlosser failed to recommend the appellant for appointment to the subject position.

Dr. Robert Kanen (evaluator on behalf of the appellant) carried out a psychological evaluation and characterized the appellant as functioning within normal ranges. During the interview, the appellant presented as pleasant, well related, and with good social skills. Dr. Kanen found no evidence of any mental health concerns such as depression, bipolar disorder, substance abuse, antisocial tendencies, or any health concerns. Dr. Kanen found the appellant to be a reliable and responsible individual, one who tends to respect rules and will operate within established policies and procedures. The appellant is motivated to serve the community. On the testing, Dr. Kanen indicated that the appellant scored in the likely to recommend/likely to meet expectations on all five measurements. Dr. Kanen saw no evidence of anxiety and 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 psychiatric treatment for General Anxiety Disorder. On a January 12, 2018 Application for Firearms Purchaser Identification Card and/or Handgun Purchase Permit, the appellant indicated "no" on a question that asked had he **ever been** (*emphasis added*) in psychiatric treatment or on psychiatric medicine. When the Panel pressed him for an explanation, he stated that he answered "no" because he was no longer in treatment and no longer receiving medication. The Panel found this answer to be egregious from an individual seeking employment as a Police Officer and applying for a hand gun permit. Blatantly misrepresenting one's background on an application for a firearm permit calls into question the integrity of the candidate and his ability to comply with the duties of a Police Officer. In this regard, the Panel noted that the appellant's response to its inquiry indicates that he is led by others and will provide misinformation when it works in his favor or the favor of those within his circle. The Panel opined the this was unacceptable behavior and found it to be consistent with Dr. Schlosser's findings of immaturity, poor judgment, and significant problems with integrity. Accordingly, 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 since his Application for Firearms Purchaser Identification Card and/or Handgun Purchase Permit was never provided to the appellant or referenced in the appointing authority's psychological evaluation, it should be disregarded now. The appellant argues that the Panel based its recommendation to remove him from the list based solely on this

application and failed to consider the positive elements of the appellant's psychological evaluations. The appellant contends that he should be restored to the list.

In its cross-exceptions, the appointing authority, represented by Robert J. Merryman, Esq., asserts that the Panel's recommendation that the appellant was psychologically unfit to serve as a Police Officer was based on his record of dishonesty should be upheld. The appointing authority also noted that the appellant misrepresented his driving record to the Panel. The appointing authority contends that any lying or dishonesty by a Police Officer would render his testimony unusable in court in all judicial proceedings thereafter. Individuals who aspire to serve as Police Officers are held to a higher standard of integrity and honesty than other employees. 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. The Commission concurs with the Panel's concerns which centered on issues of the appellant's integrity and honesty, not conducive to an individual who aspires to a successful career in law enforcement. In this regard, the Commission does not find the appellant's explanation credible regarding his negative response to the question that asked had he ever been in psychiatric treatment or on psychiatric medicine, whether part of the original assessment or not, and sees this as a deliberate attempt on the part of the appellant to deceive, conduct which is not conducive to an individual who aspires to be a Police Officer. 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.

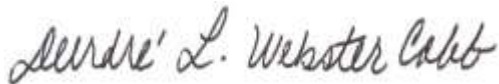
Having considered the record and the Medical Review Panel's report and recommendation issued thereon and the exceptions filed on behalf of the appellant, the cross-exceptions filed on behalf of the appointing authority, and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the Medical Review Panel's report and recommendation.

### **ORDER**

The Civil Service Commission finds that the appointing authority has met its burden of proof that N.B. 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 19TH DAY OF NOVEMBER, 2019



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Chairperson, Civil Service Commission

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