



STATE OF NEW JERSEY

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

In the Matter of A.D.V., Fire Fighter
(M1537T), Harrison

Medical Review Panel Appeal

CSC Docket No. 2019-455

ISSUED: November 21, 2019 (BS)

A.D.V., represented by Robert K. Chewning, Esq., appeals his rejection as a Fire Fighter candidate by Harrison and its request to remove his name from the eligible list for Fire Fighter (M1537T) 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 the attached report and recommendation on May 10, 2019. Exceptions were filed on behalf of the appellant.

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 evidencing significant problems, including emotional dysregulation and poor stress tolerance. Dr. Gallegos noted that the appellant served in the military and had been deployed for three tours of duty, where he guarded detainees and had “several” traumatic experiences. The appellant was subsequently diagnosed with post-traumatic stress disorder (PTSD) and granted a 100% disability compensation for same, which he is still collecting. Dr. Gallegos further noted that this level of compensation was typically awarded in cases with notably severe and debilitating symptoms. The appellant’s VA treatment record revealed serious impairment and Dr. Gallegos opined that his functional impairment reflect that he would not be able to function as a Fire Fighter. Dr. Gallegos also cited the

psychological testing, including specific items on the testing, as the basis for not recommending the appellant for employment as a Fire Fighter.

Dr. Robert Kanen (evaluator on behalf of the appellant) carried out a psychological evaluation and characterized the appellant as experiencing trauma while serving in the U.S. Navy as “beyond the realm of normal human experience.” Dr. Kanen noted that the appellant had admitted to using cocaine on three occasions when he was young, but there is no evidence of a substance abuse problem. The presence of anxiety revealed by the testing was explained as being due to the history of PTSD, which Dr. Kanen noted was “in remission.” Dr. Kanen noted that elevations on several scales on the Inwald Psychological Inventory-2 (IPI-2) that indicate the appellant falls into a category not likely to recommend in a public safety/security position. However, Dr. Kanen opined that this may be an over prediction and is based on past, not current history. Dr. Kanen could find no reason why the appellant was not psychologically fit to serve as a Fire Fighter.

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 the appellant’s emotional dysregulation and poor stress tolerance as a result of his PTSD. The Panel reviewed corroborating evidence from the VA which indicated that, although the appellant had not been diagnosed with a traumatic brain injury, he had experienced head injuries related to attacks from combatants/detainees and a close range improvised explosive device. The VA found the appellant to meet all of the diagnostic criteria for PTSD and as having “occupational and social impairment in most areas such as work, school, family relations, judgment, thinking, and/or mood.” The Panel noted that VA records further indicated that the appellant has one or more service connected disabilities for which he was receiving 100% percent disability although the VA did not declare him to be totally disabled because his case is scheduled for review on May 1, 2020. The Panel found that, although the appellant’s symptoms have appeared to attenuate over time, he continues to experience symptoms of PTSD as evidenced by his responses on the psychological testing and current explanations of those responses. The Panel opined that given the appellant’s history of PTSD, historical severity of symptoms, the psychological evaluations, its opinion that the appellant is still experiencing symptoms, and his responses to bias items on the testing, that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Fire Fighter, 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 argues that the Panel’s conclusion that he still suffers from PTSD is erroneous. Dr. Kanen concluded that the appellant’s

symptoms were in “remission” and the VA indicated that the appellant’s case was scheduled to be re-evaluated on May 1, 2020. The appellant also asserts that he is capable of functioning on a daily basis as a business owner and the Panel failed to consider this. Additionally, the Panel failed to establish how its concern with bias issues affected the appellant’s ability to be a Fire Fighter. The appellant argued that his name should be restored to the subject Fire Fighter.

CONCLUSION

The Job Specification for the title of Fire Fighter is the official job description for such positions within the civil service system. According to the specification, Fire Fighters are entrusted with the safety and maintenance of expensive equipment and vehicles and are responsible for the lives of the public and other officers with whom they work. Some of the skills and abilities required to perform the job include the ability to work closely with people, including functioning as a team member, to exercise tact or diplomacy and display compassion, understanding and patience, the ability to understand and carry out instructions, and the ability to think clearly and apply knowledge under stressful conditions and to handle more than one task at a time. A Fire Fighter must also be able to follow procedures and perform routine and repetitive tasks and must use sound judgment and logical thinking when responding to many emergency situations. Examples include conducting step-by-step searches of buildings, placing gear in appropriate locations to expedite response time, performing preparatory operations to ensure delivery of water at a fire, adequately maintaining equipment and administering appropriate treatment to victims at the scene of a fire, e.g. preventing further injury, reducing shock, restoring breathing. The ability to relay and interpret information clearly and accurately is of utmost importance to Fire Fighters as they are required to maintain radio communications with team members during rescue and firefighting operations.

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 does not find the exceptions filed on behalf of the appellant to be persuasive. The Commission notes that the appellant is still receiving 100% disability from the VA and that this alone disqualifies him from becoming a Fire Fighter at this time. When viewed with the other areas of concern, the Commission agrees with the Panel’s assessment that the appellant is not a psychologically suitable candidate for employment as a Fire Fighter at this time. This does not preclude the appellant from going through the application and testing process again after his May 1, 2020 re-evaluation by the VA.

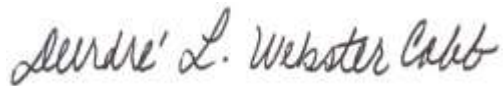
Having considered the record and the Medical Review Panel's report and recommendation issued thereon and the exceptions filed on behalf of the appellant and the appointing authority, and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and 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 A.D.V. is psychologically unfit to perform effectively the duties of a Fire Fighter 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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