



**STATE OF NEW JERSEY**

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

In the Matter of A.S.H.,  
Police Officer (S9999A), East Orange

CSC Docket No. 2021-1453

Medical Review Panel Appeal

**ISSUED: DECEMBER 20, 2021 (BS)**

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A.S.H., represented by Giovanna Giampa, Esq., appeals her rejection as a Police Officer candidate by East Orange and its request to remove her name from the eligible list for Police Officer (S9999A) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel (Panel) on August 6, 2021, which rendered a Report and Recommendation on August 9, 2021. Exceptions were filed on behalf of the appointing authority, and cross exceptions were filed on behalf of the appellant.

The report by the Panel discusses all submitted evaluations. It indicates that Dr. Sandra Ackerman Sinclair (evaluator on behalf of the appointing authority) conducted a psychological evaluation of the appellant and noted that the appellant was currently working as a Veterinary Technician but had previously been employed as a Police Officer with the City of Newark from November 2015 through March 2016, when she was “terminated” for “conduct unbecoming.” In that regard, the appellant’s history included two arrests: one in 2009 when she was the victim of an assault and one in 2016 for aggravated assault which led to her separation as a Police Officer. However, the aggravated assault charge was dismissed, due to the victim being aware that it was not the appellant’s intention to harm him. The appellant was also the victim of assault at her place of employment in 2012. Moreover, the appellant was the subject of a Temporary Restraining Order (TRO) by her first boyfriend in 2013, which was ultimately dismissed. Dr. Sinclair stated that the appellant had been involved in a relationship which involved incidents of domestic violence for two and one-half years. However, at the time of the evaluation, she was involved in a relationship with her fiancé that had not included any abuse or violence. Dr. Sinclair

also listed that the appellant had been suspended in school for tardiness and for an “issue” with another student. Based on her evaluation and concerns set forth above, Dr. Sinclair did not recommend the appellant for appointment to the subject position.

The Panel’s report also indicates that Dr. Sarah DeMarco (evaluator on behalf of the appellant) carried out a psychological evaluation which set forth that the appellant had been recommended for appointment as a Police Officer in 2015 after undergoing a pre-appointment psychological evaluation but was “forced to resign” from the Newark Police Department for “conduct unbecoming” after she engaged in a physical altercation with an ex-boyfriend. The charges from this altercation were subsequently dismissed. Growing up, the appellant had witnessed a lot of domestic violence between her mother and step-father. She lived with her father for three years due to her mother’s problems with drugs. The appellant admitted to being tardy a lot while she was in high school. Further Dr. Demarco reported that the appellant was the victim of two assaults: one in 2009 at a skating rink and the other in 2012 at her place of employment. Dr. DeMarco indicated that the appellant was unaware of the reasons for these assaults. Further, the appellant was the subject of a TRO filed by her ex-boyfriend but that it was removed the same day. It was reported that the appellant had not been the initial aggressor in the assault which led to her resignation from the Newark Police Department. The appellant denied any history of substance abuse or history of mental health treatment. However, she did convey that she received the services of a “coach” to help with the relationship she had with her son’s father. Dr. DeMarco indicated that the psychological test results did not include any “elevations” which were of concern. Dr. DeMarco opined that the appellant was “at least minimally psychological suitable for the position at this time” and that it was “clear” that the appellant was “psychologically suitable to move forward.”

As set forth in the report, the Panel questioned the appellant regarding her history of being charged with assault, being involved with domestic violence, and being named in a TRO. The Panel also discussed the circumstances surrounding her assault charges and her dismissal from the Newark Police Academy. The appellant indicated that she acted without thinking and had not intended to use her keys as a weapon when she was engaged in the conflict with her ex-boyfriend. In retrospect, she admitted that it was not a healthy relationship and the appellant realized how inappropriate the behavior was. The appellant has not been in contact with this former boyfriend for several years and has no plans to contact him in the future. The appellant denied ever having initiated physical conflicts with that person or anyone else with whom she had conflicts. The Panel also reviewed the circumstances surrounding the TRO in which the appellant explained she was young and remained in contact with a former boyfriend, whose current girlfriend did not like it and encouraged him to file the TRO. The appellant explained that the TRO was dismissed when the former boyfriend did not show up in court. The Panel discussed two additional incidents in which the appellant was a victim of assault. The Panel found

no evidence that the appellant initiated either of these incidents. Additionally, the Panel found that, given her involvement in and exposure to domestic violence situations, the appellant's responses indicated that she has a good understanding of the conflict resolution skills in those types of police calls. The Panel also reviewed documentation concerning OCD-like behavior but found that the appellant did not engage in any ritualistic behavior which would interfere with police work. After a careful review of the incidents noted in the appellant's behavioral history, the Panel concluded that there was not a pattern of violent behavior on the appellant's part. Aside from her dismissal from the Newark Police Academy, the appellant has maintained a good employment history. The Panel found no evidence of conflicts or disciplinary problems at her places of employment over the past five years. Therefore, the Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police Officer, indicated that the appellant was psychologically fit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should not be upheld. The Panel recommended that the appellant be restored to the subject eligible list.

In its exceptions, the appointing authority, represented by Mal'ee L. Wing, First Assistant Corporation Counsel, argues that the Panel failed to give appropriate consideration that the appellant had been "terminated" from the Newark Police Department for "conduct unbecoming." The appointing authority emphasizes that the appellant had two separate incidents of domestic violence while in the Newark Police Academy and one of the incidents involved going to the victim's place of employment to confront him about a photograph she had seen. The appointing authority takes exception to the findings of the Panel that the appellant exhibited no pattern of violent behavior and that instances in her behavioral history were merely "poor judgment." Further, the appointing authority takes exception to the Panel's finding that the appellant appeared to have a good understanding of conflict dispute resolution and noted that the Panel only posed one question to the appellant on how she would respond to a domestic violence call. The appointing authority asserts that the appellant presented with serious concerns related to the areas of impulse control, emotional regulation, and stress tolerance. The appointing authority contends that the best indicator of future performance, as stated by its psychological evaluator who appeared before the Panel, is past behavior and notes that, in addition to the arrests and the TRO, the appellant reported having had several prior physical altercations with the victim of the assault and others. It states that the Panel appeared to give almost no consideration to these facts as reported to each evaluator and the discrepancies therein. Accordingly, the appointing authority contends that the Panel failed to properly evaluate and consider these critical facts concerning the psychological suitability of the appellant. The appointing authority respectfully requests that the Civil Service Commission (Commission) reject the Panel's Report and Recommendation.

In her cross exceptions, the appellant argues that, contrary to the appointing authority's claims, there was only one incident of domestic violence while the appellant attended the Newark Police Academy. The appellant contends that the appointing authority conducted a thorough background check prior to extending the conditional offer of employment and that her disqualification was based on psychological evaluation alone, not the background investigation. The appellant agrees with the Panel's conclusion that there was no pattern of violent behavior in her background and that the incidents in her history represented bad judgment. The appellant claims she had only one incident of domestic violence in her past and that she had been the victim. Further, she has never been found guilty of the crime of domestic violence and has not been involved in any domestic violence incidents since. Therefore, the appellant maintains that the Commission should adopt the Panel's Report and Recommendation and re-instate her to the appointment process.

It is noted that agency records indicate that the appellant was appointed as a Police Officer with the City of Newark effective September 17, 2015. The appellant was issued a Preliminary Notice of Disciplinary Action, dated March 8, 2016, indefinitely suspending the appellant on charges of a violation of departmental rules and regulations regarding criminal law and conduct in public and in private and conduct unbecoming a public employee. Specifically, the City of Newark asserted that on March 7, 2016, the appellant responded to a place of employment and quarreled with a male which resulted in her striking the male "several times about the face with an unknown object causing visible injuries requiring medical attention." The City of Newark also indicated that the appellant had been arrested on March 8, 2016 for aggravated assault, possession of a weapon for unlawful purposes, and unlawful possession of a weapon. A Final Notice of Disciplinary Action, dated October 18, 2017, was issued which noted that the appellant had tendered a letter of resignation, effective March 7, 2016, which had been accepted.

## CONCLUSION

The Job Specification for the title of 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 Commission has reviewed the Panel's Report and Recommendation and notes that the Panel conducts an independent review of the raw data presented by the parties as well as the recommendations and conclusions drawn by the various evaluators and that, in addition to the Panel's own review of the results of the tests administered to the appellant, it also assesses the appellant's presentation before it prior to rendering its own conclusions and recommendations which are based firmly on the totality of the record presented. In this case, the Panel did not find that the appellant exhibited a pattern of violent behavior which would rise to the level of disqualification. However, after its own review of the Panel's Report and Recommendation, and the exceptions and cross exceptions presented by the parties, the Commission is concerned about the circumstances surrounding the appellant's separation as a Police Officer with the City of Newark. The incident which resulted in her separation occurred while she was in the Newark Police Academy. Of particular concern to the Commission was the incident in which the appellant sought out an ex-boyfriend at his place of employment. Even though the assault charge was eventually dismissed, the incident still led to the appellant's indefinite suspension as a Police Officer for unbecoming conduct, among other charges, and her eventual resignation. Although the appointing authority extended a conditional offer of employment to the appellant, conditioned upon her passing a psychological examination, the Commission notes that many candidates have been removed from eligible lists under circumstances where the candidate, in his or her prior employment, resigned while disciplinary charges were pending or resigned in good standing in lieu of discipline and had a prior disciplinary history. For example, in *Strasser v. Camden County* (MSB, decided May 28, 1992), the removal of an eligible from an open competitive list based on the eligible's employment history which showed that he had resigned while disciplinary charges imposing a removal were pending was upheld. In essence, these candidates are considered to have unsatisfactory employment records. Although the Panel found no evidence of conflicts or disciplinary problems at her places of employment over the past five years, the appellant must be held to a higher standard as she once again seeks to be a Police Officer, a position she held when she undoubtedly exhibited poor judgment. Accordingly, the Commission cannot ratify the appellant's suitability for employment as a Police Officer at this time. <sup>i</sup>

Therefore, having considered the record, including the Job Specification for Police Officer and the duties and abilities encompassed therein, and the Panel's

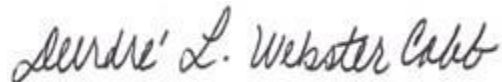
Report and Recommendation issued thereon, and having made an independent evaluation of the same, the Commission denies the appellant's appeal.

**ORDER**

The Commission orders that the appellant's 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 15<sup>TH</sup> DAY OF DECEMBER, 2021



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<sup>i</sup> The Commission notes that the appellant's resignation occurred less than three years from the announcement of the Police Officer (S9999A) examination. Given the close proximity in time, the Commission finds that her employment record is adverse to the position sought. With continued passage of time and further evidence of sound judgment, the appellant's employment history may not preclude her from consideration for future employment as a Police Officer.