



STATE OF NEW JERSEY

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

In the Matter of R.I.M.,
Police Officer (S9999U), Township of
South Orange Village

Medical Review Panel Appeal

CSC Docket No. 2019-1955

ISSUED: MARCH 26, 2021 (BS)

R.I.M. appeals her rejection as a Police Officer candidate by the Township of South Orange Village and its request to remove her 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 (Panel) on November 20, 2019, which rendered a Report and Recommendation. Exceptions were filed by the appellant, and cross-exceptions were filed on behalf of the appointing authority.

The report by the 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 presenting with “significant problems with integrity, judgment, impulse control, and dutifulness.” Dr. Gallegos’ main concerns stemmed from the appellant’s history of assaultive behavior as well as her propensity for getting into conflicts with supervisors and coworkers.¹ The appellant reported some of the incidents during the interview, but omitted others in an attempt to “sanitize” her background. She failed to disclose an incident with her supervisor and one of the two physical altercations with a co-worker. Dr. Gallegos found that, overall, the appellant had a

¹ Dr. Gallegos noted that the appellant had previously been examined for another law enforcement position a month prior to his evaluation and was not recommended.

“violent streak and is overly aggressive and/or defensive in interpersonal relationships at home and at work.” Dr. Gallegos opined that the appellant is “likely to overreact in a situation which would require calm and good judgment.” Testing revealed that the appellant was at a high risk for having integrity problems and also had a mild elevation on the Antisocial Features scale, which was indicative of a “history of illegal acts, authority problems, lack of empathy, instability and excitement-seeking.” Dr. Gallegos failed to recommend the appellant for appointment.

The Panel’s report also indicates that Dr. Abraham Kuperberg (evaluator on behalf of the appellant) carried out a psychological evaluation of the appellant and characterized the appellant “cooperative in her demeanor.” The appellant admitted to being contentious in her younger days, but she had explained it as the result of living in a tough neighborhood where she had to learn to defend herself. Dr. Kuperberg opined that the explanations the appellant provided regarding her past actions were “reasonable.” Dr. Kuperberg stated that the appellant has now turned to religion, has been “born again,” and that she “had learned from her various experiences, making her a more stable, mature person.” Dr. Kuperberg reported that testing revealed no evidence of psychopathology.² Therefore, Dr. Kuperberg found no significant psychological reason why the appellant would be unsuitable for employment as a Police Officer.

The Panel noted that the evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. However, the Panel determined that the record found support in Dr. Gallegos’ concerns regarding the appellant’s integrity, judgment, impulse control, and dutifulness. Although Dr. Kuperberg made note that the appellant had turned to religion and learned from her previous experiences, Dr. Gallegos was particularly concerned about the appellant’s history of assaultive behavior and interpersonal conflicts with supervisors and co-workers. The Panel had the same concern regarding the two incidences of violence in the workplace, which had resulted in the appellant’s suspensions. While the Panel did take into account the positive findings in Dr. Kuperberg’s report, the negative findings regarding the appellant’s workplace behavior was particularly concerning in light of the position sought. Moreover, the Panel indicated that the findings that the appellant could possibly fail to listen to views contrary to her own coupled with feelings of being entitled and a willingness to disregard conventional standards of social conduct render the appellant psychologically unsuitable for the subject position. The Panel also took note of the

² The Panel indicated that the bulk of the excerpts from Dr. Kuperberg’s report were positive but found elements of certain passages in the report revealing. These included: “(i)nefficiency or laziness can cause her to be demanding and perhaps overbearing,” and the problematic “feelings of being entitled, an assumption that she deserves special favors without the need to reciprocate. Willing at times to disregard conventional standards of social conduct and devising plausible reasons to justify behaviors that might be socially overpowering of lacking in sensitivity, she can sometimes deceive herself as much as those around her.”

manner in which the appellant “forcefully, though short of overtly slamming the door” when leaving her Panel session consistent with these findings. Accordingly, the Panel concluded 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. Therefore, the Panel recommended that the appellant be removed from the eligible list.

In her exceptions, the appellant disagrees with the Panel’s findings regarding her psychological suitability. She argues that she did not leave the meeting angry, nor did she slam the door. Rather she “left pleased with the fact that [she] was able to speak about [her] life and all [she has] accomplished in [her] career.” She states that she “was asked to close the door at which time the door was stuck from the outside and [she] pushed it shut unknown to [her] what took place on the other side.” The appellant questions whether she should seek an attorney and if there was “any form of video recording that can be checked” to prove how she left the meeting.³

In its cross exceptions, the appointing authority, represented by H. Thomas Clarke, Esq., agrees with the Panel’s conclusions regarding the workplace violence issue. It indicates that the appellant’s history of violence, workplace issues, and inconsistency in reporting events are “certainly not consistent with the job specifications for a Police Officer.” Additionally, it submits that the negative aspects of Dr. Kuperberg’s report which were of concern to the Panel are also of concern to the appointing authority. The appointing authority argues that a Police Officer must be able to exercise restraint, listen to views contrary to her own, and display sensitivity to others. The appointing authority respectfully requests that the Civil Service Commission (Commission) uphold the Report and Recommendation of the Panel and find the appellant psychologically unsuitable for employment as a Police Officer.⁴

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

³ The appellant was advised by staff that there was no video recording of the meeting and that it was within her discretion to retain an attorney.

⁴ It is noted that the appointing authority’s submission was sent by email and regular mail. In response, the appellant sent an email requesting “how to move forward from this appeals process because [she] disagree[s] with” the appointing authority’s email. The appellant was informed by staff that the appeal would be forwarded to the Commission for final determination along with the parties’ exceptions and cross exceptions, and that she may file a request for reconsideration or pursue an appeal with the Superior Court of New Jersey, Appellate Division, should she disagree with the Commission’s determination.

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 Job Specification for this title and the duties and abilities encompassed therein and finds legitimate concerns were raised by the appointing authority's evaluator concerning the appellant's problems with integrity, judgment, impulse control, and dutifulness. The Commission is not persuaded by the appellant's exceptions as to her suitability for the position and shares the Panel's concerns regarding the appellant's history of workplace violence, sense of entitlement, limited poor social competence, dutifulness, and integrity. Particularly disturbing to the Commission is the appellant's history of workplace violence. The Commission strongly agrees with the Panel and the appointing authority that this type of behavior in the workplace, let alone in a law enforcement environment, is inappropriate and jeopardizes relations with the public. It is noted that the Panel's Report and Recommendation provides the written record of what occurred during the meeting. There is no audio or video recording. Parties are provided with a copy of the written report and, pursuant to *N.J.A.C.* 4A:4-6.5(g)3ii, may file written exceptions with the Commission within 10 days of receipt of the Report and Recommendation, and cross exceptions within five days, as was properly done in this case. In addition, it is at the discretion of appellants to represent themselves or obtain legal representation. The appellant in this case could have sought legal representation at any time during the proceedings. *See N.J.A.C.* 4A:2-1.1(e). Thus, even accepting the appellant's explanation regarding the closure of the door, the Commission finds the record, when viewed in its entirety, supports the findings of the Panel and the appointing authority's evaluator concerning the appellant's judgment and conflict resolution skills.

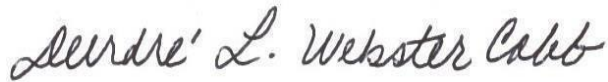
Therefore, having considered the record, including the Job Specification for Police Officer and the duties and abilities encompassed therein, and the Panel's Report and Recommendation issued thereon and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation.

ORDER

The Commission finds that the appointing authority has met its burden of proof that R.I.M. is psychologically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that her 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 24TH DAY OF MARCH, 2021



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