



STATE OF NEW JERSEY

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

In the Matter of E.E.V.,
County Correctional Police Officer
(S9999A), Passaic County

Medical Review Panel Appeal

CSC Docket No. 2021-1536

ISSUED: August 24, 2022 (BS)

E.E.V., represented by Robert K. Chewning, Esq., appeals his rejection as a County Correctional Police Officer candidate by Passaic County and its request to remove his name from the eligible list for County Correctional 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 October 27, 2021, which rendered its Report and Recommendation on November 11, 2021. 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 appellant¹ and stated that the appellant presented as well-mannered but immature. Dr. Sinclair found that the appellant “evidenced concerns in the areas of dutifulness, maturity, integrity, and impulse control.” The appellant was frequently tardy to high school, self-reporting “about 120 times,” and had received five Saturday detentions. He graduated from high school in 2018. Moreover, the appellant self-reported being late twice to his current employment with the Clifton Department of Public Works. Moreover, Dr. Sinclair noted that the appellant’s driving record, which included a 2019 license suspension for unsafe operation of a vehicle, also supported these concerns. Dr. Sinclair opined

¹ The appellant was tested on October 8, 2020, and Dr. Sinclair interviewed the appellant on October 9, 2020.

that, while the appellant appeared to be working toward maturity and stability with his education and employment, he had yet to do so for a long enough period of time to outweigh her concerns. The test data supported Dr. Sinclair's concerns. As a result, Dr. Sinclair failed to recommend the appellant for appointment.

The Panel's report also indicates that Dr. Robert Kanen, evaluator on behalf of the appellant, carried out a psychological evaluation of the appellant² and characterized the appellant as functioning within normal ranges and as having no psychopathology or personality problems which would interfere with work performance. Dr. Kanen found that the appellant had the necessary cognitive skills to perform the duties of the position. He noted that the appellant attends college, serves as a volunteer Fire Fighter, and maintains steady employment. Dr. Kanen concluded that the personality testing placed the appellant in a category likely to recommend for employment in a public safety/security capacity and most likely to meet job expectations. In Dr. Kanen's professional opinion, the appellant was psychologically suitable for appointment as a County Correctional Police Officer.

Upon its review, the Panel noted that the evaluators on behalf of the appellant and the appointing authority reached differing conclusions and recommendations. The appointing authority's evaluator saw the appellant as presenting concerns in the areas of dutifulness, maturity, integrity, and impulse control while the appellant's evaluator had no such concerns. At the meeting, the Panel indicated that the appellant did not present with any overt signs of psychopathology and answered the Panel's questions in a cooperative manner. In that regard, the appellant stated that he has continued to be employed by the Clifton Department of Public Works and that he has been hired on a full-time rather than seasonal basis.³ Other than being late on a couple of occasions, the appellant reported no disciplinary actions or reprimands. With regard to his lateness to school, the appellant explained that he had overslept due to working late. Regarding his statement on an affidavit that he did not use drugs and later admitted to Dr. Sinclair that he had smoked marijuana on one occasion, the appellant offered that he thought that the question referred to his current marijuana use. The appellant informed the Panel that he had not had a speeding ticket since 2019, but later clarified that he had been cited for other violations. Given these answers, the Panel determined that the appellant was evasive to the Panel. It also had concerns about how he responded to the drug use questions and his excessive lateness to school coupled with being late twice at work. Thus, taking into consideration the evaluations of Drs. Sinclair and Kanen, the appellant's presentation at the meeting, and the behavioral record when viewed in light of the Job Specification for County Correctional Police Officer, the Panel concluded that the appellant was not fit to perform the duties of the position.

² Dr. Kanen evaluated the appellant on May 12, 2021.

³ Agency records indicate that the appellant held a temporary appointment as a Laborer 1 with the City of Clifton from June 8, 2020 to December 9, 2020. Effective May 17, 2021, he received a regular appointment as a Laborer 1.

However, the Panel was “of the opinion that these issues were related to the [appellant’s] immaturity, and that continuing to demonstrate responsibility in his full-time position and being free of other issues, for example citations related to a motor vehicle and lateness, would be helpful in mitigating [its] concerns in the future.”

In his exceptions, the appellant asserts that Panel’s conclusions of his alleged immaturity are “arbitrary” and “capricious,” and ignores “material facts,” such as Dr. Kanen’s findings that he has no psychopathology or personality problems that would interfere with work performance and that he falls into the category “most likely to be recommended” for appointment and “likely to meet expectations” in four categories: ability to control conflict; ability to relate and work with the public; ability to write clear, complete, and accurate reports; and in an overall rating by a field training officer. The appellant contends that the Panel failed to put the appropriate weight on Dr. Kanen’s positive recommendation that he has the necessary cognitive skills to do the job and does not have any adverse behavioral traits. He contends that he has demonstrated the necessary level of maturity for the position sought as he has maintained steady employment with the City of Clifton for over two years with no discipline and has been a volunteer Fire Fighter. The appellant cites *In re Vey*, 124 N.J. 534, 540 (1991), which requires that the appointing authority has the burden of proof in establishing the validity of a psychological examination. The appellant maintains that the appointing authority and the Panel did not identify what County Correctional Police Officer duties the appellant would be ineffective at performing. Accordingly, the appellant contends to his name should be restored to the subject eligible list.

CONCLUSION

The Job Specification for the title of County Correctional Police Officer is the official job description for such positions within the Civil Service system. According to the specification, officers are responsible for the presence and conduct of inmates as well as their safety, security and welfare. An officer must be able to cope with crisis situations and to react properly, to follow orders explicitly, to write concise and accurate reports, and to empathize with persons of different backgrounds. Examples of work include: observing inmates in a variety of situations to detect violations of institutional regulations; escorting or transporting individual and groups of inmates within and outside of the institution; describing incidents of misbehavior in a concise, factual manner; following established policies, regulations and procedures; keeping continual track of the number of inmates in his or her charge; and performing regular checks of security hazards such as broken pipes or windows, locks that were tampered with, unlocked doors, etc.

The Civil Service Commission (Commission) has reviewed the Job Specification for this title and the duties and abilities encompassed therein and finds

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 appellant's exceptions do not persuasively dispute the findings and recommendations of the Panel in this regard. The concerns of the appointing authority's evaluator centered on dutifulness, maturity, integrity, and impulse control and was supported by the test data. The Panel agreed with the findings of Dr. Sinclair and was not persuaded by the appellant's explanations of behavioral issues which the Panel characterized as evasive. The Commission notes that the subject eligible list promulgated on May 15, 2020, the appellant had his pre-appointment psychological evaluation in October 2020, and the appellant graduated from high school, where his 120 instances of lateness occurred, in 2018, and that his driver's license suspension for unsafe operation occurred in 2019. Along with the other aspects of the appellant's behavioral history, neither of these instances could hardly be considered remote in time.

Contrary to the appellant's reliance on *Vey, supra*, the Commission notes that dutifulness, maturity, integrity, and impulse control are very important psychological characteristics that directly relate to the job requirements of those aspiring to serve in a law enforcement capacity and the Commission is mindful that the Panel found the appellant to be evasive in his responses regarding various aspects of his behavioral background. Thus, the Commission agrees with the Panel's conclusions with respect to the appellant's suitability and defers to the Panel's expert opinion. In that regard, 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 for law enforcement positions.

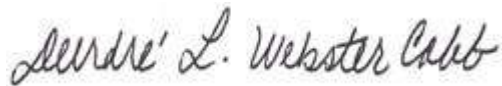
Therefore, having considered the record, including a review of the Job Specification for the position sought, and the Panel's Report and Recommendation issued thereon and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation. Accordingly, the appellant's appeal is denied. However, the Commission notes that in time as the appellant demonstrates a resolution of the issues, as found by the Panel, he may prove to be a successful candidate.

ORDER

The Commission finds that the appointing authority has met its burden of proof that E.E.V. is psychologically unfit to perform effectively the duties of a County Correctional 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 24TH DAY OF AUGUST, 2022



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