



**STATE OF NEW JERSEY**

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

In the Matter of D.P., Police Officer  
(S9999A), City of Passaic

CSC Docket No. 2021-567

Medical Review Panel Appeal

**ISSUED: October 12, 2022 (BS)**

D.P., represented by Robert K. Chewning, Esq., appeals his rejection as a Police Officer candidate by the City of Passaic and its request to remove his 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 February 19, 2021, which rendered a Report and Recommendation on February 19, 2021. Exceptions were filed on behalf of the appellant, and cross exceptions were filed by the appointing authority.

The report by the Panel discusses all submitted evaluations. It indicates that Dr. Han Zhang Liang of The Institute for Forensic Psychology (IFP), evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and noted that the appellant presented late for his appointment, contrary to the email instructions he was provided, and presented with euthymic mood and congruent affect. According to Dr. Liang, the appellant was very defensive and evasive in his approach to the interview, particularly regarding the negative items in his life history. Additionally, the written materials the appellant was given to complete were “haphazardly filled out” and he seemed to have difficulty following written instructions. The background provided by the appointing authority further confirmed and noted that the appellant submitted an incomplete application. When the appellant was asked about this, the appellant offered that he did not have all of the information and that he “was running around trying to get the information.” Dr.

Liang stated what the appellant did submit was poorly written with numerous cross outs and marked up questions revealing that he changed responses. Dr. Liang opined that the appellant was not a reliable historian.

Dr. Liang also expressed significant concerns about the appellant regarding his integrity, dutifulness, learning, and problem-solving abilities. The behavioral history revealed that the appellant was terminated as a valet at the Englewood Valley Hospital in December 2019 due to three separate complaints from car owners regarding missing items (coins). The appellant had valeted all three vehicles, and video surveillance noted suspicious activity on the appellant's part. Dr. Liang was troubled by the appellant's claim that his termination was a layoff. The appellant was confronted with the aforementioned information from the background investigation and he then admitted he was terminated due to suspicion of theft. However, he excused his failure to be truthful during Dr. Liang's evaluation on the basis that the allegations were "untrue." Dr. Liang noted that the appellant failed to disclose this termination to the background investigator or on his Biographical Summary Form. Dr. Liang opined that such a blatant omission of a serious and recent job termination is a clear integrity concern and brings the appellant's entire self-reported life history into question. Dr. Liang also found the appellant's work record to be troubling and erratic and noted that he never held a job for more than eight months in his entire work history. For a 34-year old candidate, Dr. Liang opined that the appellant's inability to hold a job for any substantive length of time is highly atypical and likely reflects some underlying pervasive problems with work performance. Dr. Liang indicated that the appellant scored very low on various measures of cognitive functioning, it took him 13 years to complete a Bachelor's degree with a low grade point average, and as noted above, his written materials were substandard. Dr. Liang questioned whether the appellant had the cognitive capacity and degree of conscientiousness/attention to detail which would be expected of someone serving as a Police Officer. Finally, Dr. Liang also found that the appellant had been arrested in 2003 and charged with attempted sexual assault, unlawful imprisonment, assault, and harassment in the second degree. However, the plaintiff failed to cooperate with prosecutors and the case was dismissed in 2005. The appellant failed to mention the sexual abuse charge to Dr. Liang, only mentioned the assault charge to the background investigator, and apparently attempted to sanitize his record. Although the appellant insisted that he was innocent in this arrest, given the multiple instances of evasiveness throughout the pre-employment process, Dr. Liang questioned the appellant's credibility in that regard. As a result, Dr. Liang 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 appellant 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 the appellant to be stable and responsible and

possessing the necessary cognitive ability to perform the duties of this position. Dr. Kanen noted that the appellant's arrest occurred when the appellant was a juvenile and the charges were dismissed. Dr. Kanen indicated that the appellant has never been arrested as an adult and showed no evidence of antisocial behavior. He stated that the appellant is college educated, appeared to be service oriented, and had an excellent military record. Dr. Kanen found that, on the personality testing, the appellant fell in the category of likely to be recommended for employment in a public safety position and likely to meet expectations in the five categories of the test, which Dr. Kanen stated was unusual for a candidate to meet all five. Therefore, in Dr. Kanen's professional opinion, the appellant was psychologically suitable for appointment as a Police Officer.

The Panel had set forth the conclusions of the evaluators on behalf of the appellant and the appointing authority. The appointing authority's evaluator saw the appellant as presenting concerns in the areas of integrity, dutifulness, learning, and problem-solving abilities while the appellant's evaluator had no such concerns. The Panel found the appellant's presentation before it consistent with Dr. Liang's assessment. The Panel questioned the appellant regarding various incidents in his behavioral record and found him to be evasive. For example, when confronted with the report from his former employer regarding his 2019 termination as a valet, which clearly stated he was to be terminated due to theft, the appellant stated he was unaware that there was a report and that he did not know why he was terminated. The Panel asked the appellant again about his statements regarding his termination, and it was apparent to the Panel that the appellant was "intentionally intending to obscure the information provided" to the Panel, Dr. Liang, the appointing authority, and Dr. Kanen. The Panel also found that, from reviewing Dr. Kanen's report, the appellant had misrepresented the incident because he was unaware that Dr. Liang was aware of the incident and that there was a written report. The Panel shared Dr. Liang's concerns about the appellant regarding dutifulness and integrity. The Panel opined that, as a candidate for Police Officer, the appellant is expected to have integrity and to follow the law. Further, the Panel noted that, as a Police Officer, there is an expectation for the appellant to report events accurately even if those reports do not present him in a favorable light. The Panel found that, in view of Drs. Liang's and Kanen's evaluations, the appellant's presentation before the Panel, and the behavioral record when viewed in light of the Job Specification for Police Officer, the appellant was not mentally fit to perform effectively the duties of the position.

In his exceptions, the appellant asserts that the Panel made its recommendation on errors in fact and without consideration for other material facts. The appellant claims that the report of theft relied upon by the Panel was actually an email from the hospital's account manager to another employee. It was never determined that the appellant actually stole anything, and the appellant never received a copy of the report upon his termination. The appellant argues that he

never misrepresented this incident as he did not receive the report at the time of his termination, nor was he provided with the reason for his termination at that time. Thus, when asked why he was terminated, he said because of “overstaffing,” since he believed “that the discipline associated with the allegations of theft was the suspension without pay, which he served” and that other employees were laid off prior to his termination. With regard to the latter, the appellant certifies that he had a conversation with a former co-worker who informed him that the reason he “may have” been terminated was because of overstaffing issues and he “reasonably” believed that was the case as there were terminations for overstaffing concerns weeks prior to his termination.<sup>1</sup> The appellant states that, once Dr. Liang informed him of the existence of this report, he fully disclosed the allegations. The appellant denies being involved in theft (of coins) from vehicles. It is noted that, according to Dr. Kanen’s report, the appellant “was temporarily suspended for one day in 2019. He was told to come back on Monday. He came to work on Monday and was told he was let go.” Dr. Kanen stated that the appellant did not know there was a report and there were no charges brought. Therefore, the appellant maintains that the Panel’s determination in that regard should not be considered, as it “is essentially alleging without any basis to support its conclusions that [he] knew of the report prior to the IFP clinical interview, that [he] was found guilty of theft, or that [he] should have known that he was terminated for theft without [the employer] ever telling him.”

The appellant further asserts that he had been previously recommended by Dr. Rachel Safran, also from IFP, as being psychological fit in 2018 to enter the Passaic County Police Academy. Additionally, he highlights that, on psychological testing, he was recommended in all five categories of the test and that he has no psychopathology or personality problems that would interfere with his work performance as a Police Officer. Further, the appellant claims that there is no evidence of antisocial behavior, mental health concerns, alcoholism, or drug abuse in his record and that he was never arrested as an adult and has the cognitive abilities to perform the duties of a Police Officer. Accordingly, the appellant contends that his name should be restored to the subject eligible list or, in the alternative, since the appellant argues that there is a “clear dispute of material fact” as to his psychological fitness, the Commission should refer the appellant for an independent psychological evaluation. In support of his exceptions, the appellant submits a certification, attesting to the truth of his statements.

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<sup>1</sup> A review of the appellant’s application for employment reveals that the appellant noted in the employment section that the reason he had left his valet position was that “to [sic] many hired,” and in another question about being discharged or forced to resign, he indicated that “My boss hired to [sic] many and let me go because of it.”

In its cross exceptions,<sup>2</sup> the appointing authority, represented by Joseph P. Horan, II, Esq., asserts that “candor and integrity are paramount and dispositive” of an applicant for Police Officer. It contends that the appellant’s failure to disclose information is indicative of his questionable judgment. The appointing authority notes that it provided the content of its background investigation to Dr. Liang, who relied upon this information to reject the appellant’s candidacy. It submits that, according to the Diagnostic and Statistical Manual for Mental Disorders-5 (DSM-5), conduct disorders include deceitfulness, especially for someone who is an adult and not a minor. The appointing authority maintains that Dr. Liang’s conclusions were well within psychological boundaries due to the appellant’s repeated failings and demonstrable inability to be truthful and candid regarding his background. Regarding his arrest for attempted sexual assault, the appointing authority asserts that appellant does not get a “pass” just because he was 15 years old at the time. It submits that arrests range from minor infractions to serious infractions. The appointing authority contends that although the charges were dismissed because the alleged victim opted not to pursue the matter, the appellant was not exonerated. Moreover, the appointing authority maintains that, although instructed by the Passaic Police Department to divulge all arrests, the appellant “purposely withheld this information” and “sought to cover it up.” The appellant also failed to divulge that “he was a coin thief” and “he presents gibberish to try and explain away why he did not fess-up to his termination on his [P]olice [O]fficer application form, when required to do so.” It argues that, when IFP confronted the appellant with the actual facts of his termination, he finally admitted that he was accused of theft of quarters from vehicles. The appointing authority submits that the appellant clearly lacks integrity and candor. Lastly, the appointing authority argues that Dr. Liang was provided the background report to assess the appellant from a psychological perspective, which he did independently. The appointing authority submits that the appellant’s appeal is devoid of merit and the Report and Recommendation of the Panel should be adopted. In support of its cross exceptions, the appointing authority submits sections of the New Jersey Attorney General’s Internal Affairs Policies and Procedures and reiterates that the appellant failed to “fess-up to his arrest for sexual assault” and that he “knew exactly why his employment ended” which was “due to coin theft.”

## 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

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<sup>2</sup> It is noted that the appointing authority submitted its arguments in response to the appellant’s appeal 11 days prior to the Panel’s meeting. The submission has been placed in the record and has been taken as part of the appointing authority’s cross exceptions.

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 (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 Commission finds that the arguments raised by the appellant in his exceptions do not persuasively dispute the findings and recommendations of the Panel in this regard. The Commission notes that credibility and integrity are very important psychological characteristics that directly relate to the job requirements of those aspiring to serve in a law enforcement capacity. The Commission is mindful that the Panel found the appellant to be evasive during the Panel meeting in his responses regarding his 2019 termination. Although the appellant attempts to explain his responses in his exceptions, his explanation is not persuasive given that he admits to being suspended right before his termination due to the theft allegation. He presents overstaffing as the cause for his separation because he "reasonably" relied on a co-worker, who had no real knowledge of the situation, and that there were layoffs prior to his termination. On his application for employment, the appellant states that his "boss hired to [sic] many and let [him] go because of it." The response is misleading because at that time, if the appellant's version is to be believed, it was just *his* assumption that he was let go due to overstaffing and not because his boss actually hired too many people. Furthermore, he maintains that he did not actually know why he was terminated. Thus, his indication that his boss hired too many people as the reason for his termination was not an accurate statement and was, in itself, deceptive. Moreover, even if the appellant's employer did not specifically inform him of the reason for his termination that Monday, which would be illogical since it appears that the employer suspended

him immediately<sup>3</sup> for the theft allegation and the appellant acknowledges that he knew the reason for his suspension, the appellant's belief on why he was terminated was not reasonable given the totality of what was occurring. The appellant's reliance on a co-worker's unsubstantiated statement as fact appears convenient.

The Commission is also concerned with the appellant's juvenile arrest for attempted sexual assault. Although the charges in that matter were dismissed due to lack of pursuit on the part of the alleged victim, the Commission is further mindful that the appellant was never exonerated. These two instances in the behavioral record, one recent and the other of a very serious nature, coupled with the appellant's unstable employment history, are suggestive of an individual who is not suited for employment as a Police Officer. 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.

With regard to the appellant's request for an independent psychological evaluation, the Commission finds no circumstances on which to grant such a request. The record supports the appellant's removal from the subject eligible list. 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.

### **ORDER**

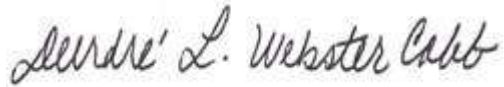
The Commission finds that the appointing authority has met its burden of proof that D.P. is psychologically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that his name be removed from the subject eligible list.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

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<sup>3</sup> The email from the account manager is dated Friday, December 13, 2019, and states that he will be submitting termination paperwork for the appellant "whom the client has asked to be removed from their property and contract immediately."

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 12<sup>TH</sup> DAY OF OCTOBER, 2022



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Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

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