



STATE OF NEW JERSEY

In the Matter of J.R.,
Police Officer (S9999A), Long Branch

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

CSC Docket No. 2022-609

Medical Review Panel Appeal

ISSUE: November 2, 2022 (DASV)

J.R., represented by Stephen B. Hunter, Esq., appeals his rejection as a Police Officer candidate by Long Branch 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.

The appeal was referred for independent evaluation by the Civil Service Commission (Commission) in a decision rendered August 24, 2022. The Commission indicated that the Medical Review Panel (Panel) did not render a determination regarding the appellant’s suitability for appointment. Rather, given the incidents and concerns that the Panel noted, it recommended that the appellant undergo an independent psychological evaluation to further assess his personality. Specifically, the Panel found that it was necessary to explore whether the appellant possesses personality disorders or other issues that were relevant to the position of Police Officer and that the evaluation incorporate personality measures, such as the Millon Clinical Multiaxial Inventory [MCMI] test, to determine his suitability for the position. The matter was then forwarded to the Commission’s independent evaluator Dr. Robert Kanen, who issued a Psychological Evaluation and Report on September 8, 2022. No exceptions or cross exceptions were filed by the parties.

The Psychological Evaluation and Report by Dr. Kanen discusses the evaluation procedure and reviews the previous psychological findings relative to the appellant. In addition to reviewing the reports and test data submitted by the previous evaluators, Dr. Kanen administered the following: Clinical Interview/Mental Status

Examination; Shipley Institute of Living Scale; Public Safety Application Form; Behavioral History Questionnaire, Inwald Personality Inventory-II, and the MCMI-III. Upon his interview of the appellant and based on the test results, Dr. Kanen found that the appellant was functioning within “normal ranges” and had no psychopathology or personality problems that would interfere with his work performance. Dr. Kanen further found that the appellant had the necessary cognitive and academic skills for the position sought and was motivated toward community service in Long Branch. The appellant also did not have an indication of antisocial tendencies or serious impulse control problems. Of note, Dr. Kanen stated that the personality testing revealed that the appellant “falls into the category likely to recommend for employment in a public safety/security position based on the estimated psychologist recommendation” and “likely to meet expectations on all four field training officer predictions,” which include the ability to control conflict, to relate and work with the public, to write clear and accurate reports, and “in the overall rating by a field training officer.” As requested by the Panel, Dr. Kanen had administered the MCMI-III and the results did not demonstrate “evidence of mental illness, personality disorder, or substance abuse problems that would interfere with the daily functioning or performance of the duties of a Police Officer.” Therefore, Dr. Kanen concluded that the appellant was psychologically suited for employment as a Police Officer.

CONCLUSION

The Job Specification for 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 and 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.

In the present matter, the Commission referred the appellant for an independent psychological evaluation. Dr. Kanen performed additional tests necessary to determine the appellant's psychological fitness for a Police Officer position and found that the appellant is functioning within "normal ranges" and does not possess psychopathology or personality problems that would interfere with his work performance. Dr. Kanen also conducted the necessary tests which addressed the concerns of the Panel, and based on those tests, the appellant fell in the category of "likely to recommend for employment" and "likely to meet expectations," and he did not possess "mental illness, personality disorder, or substance abuse problems that would interfere with the daily functioning or performance of the duties of a Police Officer." Accordingly, Dr. Kanen found the appellant to be psychologically suited for a Police Officer position.

Therefore, having considered the record and the independent Psychological Evaluation and Report issued thereon, and having made an independent evaluation of the same, including a review of the Job Specification for the position sought, the Commission accepts and adopts the findings and conclusions as contained in the independent Psychological Evaluation and Report and orders that the appellant's appeal be granted. The Commission is mindful that any potential behavioral or work performance issues can be addressed during the appellant's working test period as a Police Officer.

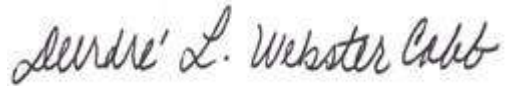
ORDER

The Commission finds that the appointing authority has not met its burden of proof that J.R. is psychologically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that the appellant's name be restored to the subject eligible list. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans with Disabilities Act (ADA), 42 U.S.C.A. §12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also* the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon the successful completion of his working test period, the Commission orders that the appellant be granted a retroactive date of appointment to August 2, 2021, the date he would have been appointed if his name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay, except the relief enumerated above.

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 2ND DAY OF NOVEMBER, 2022



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