



STATE OF NEW JERSEY

In the Matter of J.W.,
Police Officer (S9999A),
Passaic

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

CSC Docket No. 2021-982

Medical Review Panel Appeal

ISSUED: December 7, 2022 (BS)

J.W., represented by James J. Carroll, 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 July 15, 2021, which rendered its Report and Recommendation on July 23, 2021. While no exceptions or cross exceptions were filed, clarifications were submitted on behalf of the appointing authority in support of the Panel’s Report and Recommendation.

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 being dismissed from the New Jersey State Police Academy in 2017 although claiming not to have been given a reason for his dismissal. Dr. Gallegos found that the appellant actually incurred several violations prior to his dismissal. Additionally, the appellant had been arrested on a disorderly persons charge in 2010 which had been upgraded to obstruction prior to being subsequently dismissed. Other incidents included having his vehicle towed for illegal parking on a number of occasions between 2018 and 2020, being issued “at least fifty plus” summonses for parking violations, tapping on the badge of an officer issuing him a ticket, verbally threatening officers issuing him a ticket, and telling someone with whom he was having a dispute that he was a State Trooper when he was not. Moreover, the appellant reported having “serious

financial problems” after being dismissed from the New Jersey State Police Academy “because he could not find a job.” In addition, Dr. Gallegos noted that the appellant produced responses to personality testing indicating that he was in the 89th percentile for the probability of being poorly suited for work in law enforcement. As a result, Dr. Gallegos did not find the appellant psychologically suitable for employment as a Police Officer.

The Panel’s report also indicates that Dr. Robert Kanen, evaluator on behalf of the appellant, carried out a psychological evaluation and characterized the appellant as having “a very difficult upbringing,” being exposed to “drugs, violence, prostitution, and gang activity.” Dr. Kanen stated that the appellant also experienced the effects of marital problems, domestic abuse, and separation in his home. However, Dr. Kanen noted that the appellant had no history of anger management issues or mental health treatment but reported that the appellant had admitted to having been arrested in 2010 and charged with obstruction. Moreover, although the appellant had no points on his driver’s license at the time of Dr. Kanen’s evaluation, he admitted to having his license suspended in the past for unpaid parking tickets and insurance lapses. The appellant also admitted to smoking marijuana “one to ten times when he was younger.” Furthermore, the appellant had previously passed a psychological evaluation and attended the New Jersey State Police Academy in 2016 and reiterated that he was dismissed with not being given an exact reason for his dismissal. The appellant served in the United States Army and National Guard, receiving medals for his service, and was honored by the City of Passaic as an “exemplary citizen.” Dr. Kanen reviewed the results of the personality testing conducted by Dr. Gallegos and opined that the test was “inaccurate” due to the test’s reliance on “past history.” Dr. Kanen concluded that the appellant was likely to “meet on all four measures on field training officer predictions” and recommended him for appointment.

As set forth in the Panel’s report, the evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. The concerns of the appointing authority’s evaluator centered on the appellant’s history of not following the rules both in the community and in a law enforcement training academy. The appellant’s evaluator did not share these concerns. The Panel questioned the appellant about his dismissal from the New Jersey State Police Academy, which was the result of his violation of numerous academy rules, all of which were made known to him prior to his violation of these rules. The Panel indicated that the appellant has a history of violating rules, including the accumulation of numerous parking violations, one as recently as one month prior to the Panel meeting. The Panel expressed concerns that the appellant had failed to learn from the consequences of his violations, and it opined that the lack of change in his behavior indicated that he was at risk to continue not to follow rules in a manner expected of law enforcement professionals. While there were other areas of concern noted in Dr. Gallegos’ report, the Panel concluded that the appellant’s continuing

pattern of violating rules constituted sufficient grounds to remove him from consideration. 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, indicated that the appellant was psychologically unfit to perform effectively the duties of the position sought, and therefore, the action of the hiring authority should be upheld. The Panel recommended that the appellant be removed from the subject eligible list.

The appointing authority, represented by Joseph P. Horan, II, Esq., submitted clarifications as to some of the points made by the appellant during his appearance before the Panel and provided copies of the police reports to the actual incidents so that “the record in this matter is clear.” These incidents included the appellant denying that he represented himself as a State Trooper. The appointing authority asserts that, in addition to citing the appellant’s pattern of violating rules of both the community and the New Jersey State Police Academy, the Panel should have accepted Dr. Gallegos’ determination that the appellant was “manipulative, entitled, deceitful, and lacking integrity,” which was based firmly on the appellant’s behavioral history. The appointing authority notes that per the background report, the State Police indicated that the appellant “creates a story to fit what he thought would take pressure off from him.” For example, the appellant seemed to fault the academy for his dismissal rather than take ownership for his own actions. The appointing authority submits that the recurring theme in the appellant’s presentation before the Panel was that none of these issues was his fault. The appointing authority claims that, for the appellant to suggest that the violations found against him at the academy, resulting in his dismissal, “were baseless, problematic, or patently unjustified is further evidence” that the appellant was “fast and loose” with the actual facts of these matters. For these reasons, the appointing authority respectfully requests that the Civil Service Commission (Commission) denies the appellant’s appeal in its entirety as “being absolutely devoid of merit and essentially frivolous.”

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 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 history of not following the rules both in the community and in a law enforcement training academy. The Commission is further concerned by the appellant's attempt to minimize the incidents and to find fault with others rather than take ownership of his own actions. The Commission further agrees with the appointing authority and finds the appellant's continuing pattern of disregarding rules and his subsequent failure to learn from the consequences of his actions to be indicative of bad judgment, which is not a conducive trait for an individual who aspires to a career in law enforcement.

Additionally, the Commission notes that, prior to making its Report and Recommendation, 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 and, as such, are not subjective. The Panel's observations regarding the appellant's behavioral record, employment 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 applicants. The Commission finds that the record, when viewed in its entirety, supports the findings of the Panel and the appointing authority's evaluator regarding the appellant's problematic behaviors and poor judgment. Accordingly, the Commission cannot ratify the appellant's psychological fitness to serve as a Police Officer.

Therefore, having considered the record 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 conclusion as contained in the Panel's Report and Recommendation and denies the appellant's appeal.

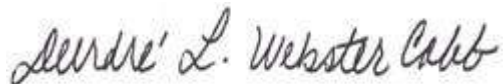
ORDER

The Commission finds that the appointing authority has met its burden of proof that J.W. 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.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 7TH DAY OF DECEMBER, 2022



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: J.W.
James J. Carroll, Esq.
Hector C. Lora
Joseph P. Horan, Esq.
Division of Human Resources Information Services