



STATE OF NEW JERSEY

In the Matter of B.B.,
Police Officer (S9999A),
Jersey City

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

CSC Docket No. 2022-1509

Medical Review Panel Appeal

ISSUED: March 29, 2023 (BS)

B.B., represented by Michael L. Prigoff, Esq., appeals his rejection as a Police Officer candidate by Jersey City 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 12, 2022, which rendered its Report and Recommendation on July 13, 2022. Exceptions were filed on behalf of the appellant.

The report by the Panel discusses all submitted evaluations. It notes that Dr. Rachel Safran, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and characterized the appellant as friendly but immature. Dr. Safran expressed concerns about the appellant’s stress tolerance and judgment. The record indicated that the appellant had been unemployed for the past year and one-half and that he had not engaged in any pro-social behavior, such as schooling or volunteer work. The appellant reported to Dr. Safran that he had been collecting unemployment since May 2020. Moreover, Dr. Safran indicated that the appellant had been issued two criminal summonses, one for trespassing which was downgraded to a noise complaint in 2018 and one for public urination in 2021. In addition, the appellant reported that, in high school, he had earned poor grades (a D average), was involved with the police after being a bystander at a fight, and was suspended due to having a “vape” on campus in 2018. The test data supported Dr. Safran’s concerns regarding the appellant’s maturity, impulsivity, and judgment. As

a result, Dr. Safran did not find the appellant psychologically suitable for employment as a Police Officer.

The Panel's report also indicates that Dr. Sandra Morrow, evaluator on behalf of the appellant, carried out a psychological evaluation and characterized the appellant as "bringing average intelligence, health and fitness, a good work ethic, good job references, community service, enthusiasm, the ability to be a team player, and an acceptable psychological profile to" the subject position. Dr. Morrow opined that it was important in an assessment and diagnosis to take into account the "phenomenology of who is being interviewed." Dr. Morrow went on to indicate that the "approach and meaningfulness of the questions are different for a professional and seasoned examiner than a first time job candidate" because of the "lifelong importance" of the stakes of the outcome on the appellant's future career path. Dr. Morrow found that, when the appellant's "youthful inexperience was factored out," which "disfavored" him during Dr. Safran's interview, the appellant showed no personality or characteristic flaws that would prevent him from being trained as a Police Officer. Dr. Morrow concluded that, within a reasonable degree of psychological certainty, there was no compelling psychological reason to disqualify the appellant.

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 maturity, stress tolerance, judgment and behavioral record. The appellant's evaluator did not share these concerns. While the Panel opined that the issues in the appellant's history (noise complaint, public urination, and having a vape on campus) were attributable to his youth, the Panel noted that these incidents were relatively recent. However, of more concern to the Panel was the appellant's responses during the discussion of his alcohol use, in which he provided inconsistent responses, which the Panel interpreted as a lack of candor when confronted with his previous responses. The Panel opined that the appellant's initial response was an example of poor decision making in the present time, rather than the past. 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 appointing authority should be upheld. The Panel recommended that the appellant be removed from the subject eligible list.

In his exceptions, the appellant argues that, with regard to his responses to questions dealing with his consumption of alcohol, the Panel ignored and did not pursue the fact that the questions were posed at different times. The appellant claims that when Dr. Safran asked him about drinking, he was referring to the period from his 21st birthday in March 2021 through Labor Day 2021, but when the Panel asked him, he had stopped drinking completely and had not drank since the fall of 2021.

The appellant asserts that the Panel's findings of lack of candor and integrity were "misplaced," since it "failed to distinguish" different dates and misunderstood that he answered the questions accurately. The appellant submits that there is no evidence in the record of any psychopathology which would preclude him from serving as a Police Officer and, accordingly, maintains that his name should be restored to the list. In support of his statements, the appellant presents a certification.

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 Civil Service Commission (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 relating to the appellant's maturity, ability to tolerate stress, and his judgment. The Commission is not persuaded by the appellant's exceptions and shares the concerns of the Panel regarding the appellant's candor and integrity and also notes the relative recentness of his inconsistent explanations regarding the use of alcohol. Furthermore, even assuming, *arguendo*, that the Panel misunderstood the appellant in that regard, the appellant's negative history (noise complaint, public urination, and having a vape on campus) and his lack of "prosocial behavior" during his unemployment demonstrate that he is not currently psychologically suited for the position of Police Officer, as those recent incidents demonstrate immaturity and poor judgment. Thus, the Commission does not find a sufficient basis to reject the Panel's conclusion regarding the appellant.

The Commission emphasizes 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. 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 B.B. 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 29TH DAY OF MARCH, 2023

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