



STATE OF NEW JERSEY

In the Matter of C.F., Police Officer
(S9999A), Florence Township

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

CSC Docket No. 2022-2005

Medical Review Panel Appeal

ISSUED: February 7, 2024 (DASV)

C.F. appeals his rejection as a Police Officer candidate by Florence Township 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.

By way of background, the appellant’s name was certified on September 30, 2021 from the Police Officer (S9999A), Florence Township, eligible list. In disposing of the certification, the appointing authority requested the removal of the appellant’s name on the basis that he was not psychologically fit to perform effectively the duties of the position. The certification was disposed on February 15, 2022. The appellant timely challenged his removal, and the matter was accepted as a formal appeal. The appellant subsequently presented an independent psychological evaluation which found him “fit to pursue a career in law enforcement.” Thereafter, the appellant’s appeal was referred to the Medical Review Panel (Panel), which rendered a Report and Recommendation on September 26, 2022. The Panel recommended that the matter be returned to the Civil Service Commission (Commission) to review the appellant’s positive urine drug screen result which was contained in the appeal record. Additionally, the Panel indicated that, should the appellant be permitted to move forward in the hiring process, he be referred to the Commission’s independent evaluator. Therefore, by letter dated October 17, 2022, the parties were given an opportunity to file exceptions and cross exceptions to the Panel’s Report and Recommendation and to address the above issues with argument and/or documentation. Submissions were thereafter received.

However, upon a final review of agency records, in a letter dated May 3, 2023, the appellant was advised that he could not be restored to the subject eligible list. Agency records revealed that, prior to the disposition of the Florence certification, he had also been certified to Willingboro Township on February 11, 2022 from the Police Officer (S9999A) eligible list and was removed due to psychological reasons. The certification disposition of his removal was approved and recorded, effective October 13, 2022, and no appeal from that determination was received. Therefore, under these circumstances, the appellant was informed that the relief he was seeking, *i.e.*, restoration to and appointment from the Police Officer (S9999A) eligible list, could not be granted. Accordingly, the appeal file was closed.

In response, the appellant requests that this matter be re-opened. He maintains that he “was not hired” nor did he receive any paperwork from Willingboro Township. He explains that he was interviewed and advised Willingboro Township regarding his “standing” with the Florence Township Police Department, which informed Willingboro Township that he was not hired because he failed the psychological examination. However, he was told that Willingboro Township would do their “OWN” psychological evaluation, but then it removed him from the February 11, 2022 Willingboro Township certification due to psychological reasons. The appellant maintains that he has only taken one psychological examination on January 31, 2022. Moreover, the appellant questions “how does *N.J.A.C.* 4A:4-4.7(g) apply if [he] was already removed from the hiring list, appealing the removal and already had his medical review board prior to Willingboro’s removal notice.” In that regard, he notes that he did not receive his notice of removal for the Willingboro Township certification until October 13, 2022, which was after the Panel’s September 26, 2022 Report and Recommendation.

It is noted that in disposing of the February 11, 2022 certification of the Police Officer (S9999A) eligible list, Willingboro Township presented Dr. Jennifer Kelly’s Psychological Screening: Certification of Rating, which indicated that the appellant had been interviewed on January 31, 2022. The position sought was Police Officer and the agency was Florence Township Police Department. Dr. Kelly found the appellant to be unqualified as not meeting the minimum psychological qualifications for the position.

CONCLUSION

N.J.A.C. 4A:4-6.5(a) states in part that an appointing authority may request that an eligible’s name be removed from an eligible list due to disqualification for medical or psychological reasons which would preclude the eligible from effectively performing the duties of the title. Additionally, *N.J.A.C.* 4A:4-6.5(c) provides that upon receipt of satisfactory documentation, appropriate Commission staff shall notify the eligible that:

1. He or she has been disqualified for appointment;
2. He or she may file an appeal with the [Commission] within 20 days of such notification;
3. If no appeal is received within the specified time, his or her name will be removed from the eligible list; and
4. If the eligible does file an appeal, an opportunity will be provided to submit a report from a physician, psychologist or psychiatrist of his or her own choosing.

It is noted that the strict timeframe to file medical and psychological disqualification list removal appeals is necessary given the unique implications a potentially meritorious appeal can have on the parties, *i.e.*, a mandated appointment of the eligible with a retroactive date of appointment. *See In the Matter of Stanley Kolbe, Jr.* (CSC, decided May 21, 2014) (Commission enforced prior order granting retroactive appointment to the appellant after a mandated appointment resulting from successfully appealing a failed psychological evaluation and dismissed the appointing authority's claims of fiscal constraints and recent layoff when three employees who ranked lower than the appellant on eligible list were not impacted by the layoff).

Moreover, *N.J.A.C.* 4A:4-4.7(g) provides that when the Commission has accepted a single application for one or more title areas, pursuant to *N.J.A.C.* 4A:4-2.3(c), an eligible whose name has been removed from the pool of eligibles for one jurisdiction or title area for cause shall be removed from the pool of eligibles for any other jurisdiction or title area. *N.J.A.C.* 4A:4-2.3(c) states in relevant part that in announcing open competitive examinations, the Chairperson or designee may provide a single application for several announcements and/or title areas (such as police, sheriff, corrections, and bilingual).

In the instant matter, the Law Enforcement Examination (S9999A) was announced with a single application and resulted in a pool of eligibles for Police Officer (S9999A). Relevant to this appeal, the appellant was certified to Florence Township and Willingboro Township. There is no dispute that the appellant received the notice of removal from the Police Officer (S9999A), Willingboro, eligible list in October 2022 but did not file an appeal of that removal. The appellant essentially argues that he did not need to file another appeal because he had already appealed his removal from the Florence Township certification, and he was not given another psychological examination by Willingboro Township. However, *N.J.A.C.* 4A:4-4.7(g), in conjunction with *N.J.A.C.* 4A:4-2.3(c), clearly provides that when the Commission has accepted a single application for a title area, the eligible whose name has been removed from the pool of eligibles for cause shall be removed from the pool of eligibles for any other jurisdiction or title area. Nonetheless, it would be impermissible to remove the appellant's name under *N.J.A.C.* 4A:4-2.3(c) if he failed a psychological examination in a different title area because psychological testing is specific to each

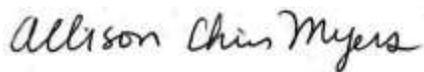
title area. In this case, the title was the same. The appellant was certified to two jurisdictions and had two opportunities to be a Police Officer, and as such, it follows that he can only be restored to the pool of eligibles upon a successful challenge for each removal. Furthermore, there is no prohibition under Civil Service law or rules for Willingboro Township to have adopted the recommendation of Dr. Kelly as it was an evaluation for the same title of Police Officer.¹ Additionally, based on longstanding administrative practice, a psychological assessment for employment in law enforcement is considered valid for one year. *See In the Matter of Aleisha Cruz* (MSB, decided December 19, 2007), *aff'd on reconsideration* (MSB, decided April 9, 2008). In the appellant's case, he was evaluated by Dr. Kelly on January 31, 2022, he was certified on February 11, 2022 to Willingboro Township, and the certification disposition of his removal was approved and recorded, effective October 13, 2022, which were all conducted within one year. As such, even if the appellant were successful in his appeal with Florence Township, his name cannot be restored to the pool of eligibles for Police Officer (S9999A) as he chose not to file an appeal of his second removal. Accordingly, the instant matter is deemed moot. *See e.g., In the Matter of Milton P. Hill, Jr.* (MSB, decided May 19, 2004).

ORDER

Therefore, it is ordered that this appeal be dismissed as moot.

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 FEBRUARY, 2024



Allison Chris Myers
Chairperson
Civil Service Commission

¹ Regarding the appellant's statement that he "was not hired," by utilizing Dr. Kelly's evaluation, Willingboro Township had in essence provided the appellant with a conditional offer of employment. Thus, had the appellant appealed that removal due to psychological reasons, it would have been considered as such. If he was successful in that appeal, the remedy could have been a mandated retroactive appointment to Police Officer with Willingboro Township upon successful completion of the working test period.

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