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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the D.A., Police Officer (S9999R),
City of Newark

CSC Docket No. 2016-3066

List Removal Appeal

ISSUED: NOV 16 2017. (DASV)

D.A., represented by Bette R. Grayson, Esq., appeals his rejection as a Police Officer candidate by the City of Newark and its request to remove his name from the eligible list for Police Officer (S9999R) 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 August 27, 2015 from the Police Officer (S9999R), City of Newark 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 psychological fit to perform effectively the duties of the position. In that regard, the appointing authority submitted the September 6, 2015 report of the appellant's evaluation conducted by the Institute of Forensic Psychology (IFP). The appointing authority's psychologist noted concerns related to the appellant's level of maturity and motivation for the position. Moreover, apart from "working under the table at a paintball store," the appellant lacked work experience and was "somewhat low in self-confidence and assertiveness." Another major concern was the appellant's reading and writing abilities. His writing sample was "rather poor," and as such, the psychologist had concerns with the appellant's ability to clearly and accurately complete police reports. In conclusion, the psychologist wrote that the appellant "does present with decent interpersonal skills and perhaps with some work experience and some time to mature a bit, he may be seen as a better candidate." However, at that time, he was not recommended for appointment as a Police Officer.

On appeal to the Civil Service Commission (Commission), the appellant asserted that in discussing the test results with the IFP psychologist, he realized that he may have "skipped a bubble" on the psychological examination and he did not answer the questions the way they were marked. Additionally, he stated that he has never had any psychiatric problems or a history of emotional problems. The appellant admitted that "he has had problems with his knowledge and fluency when taking academic tests and was always given extra time." However, he has scored on the higher end of the average range of test scores regarding verbal comprehension and reasoning and is very skilled in computers and electrical equipment repairs. Thus, the appellant believed that his failure to pass the psychological examination was not accurate. It is noted that the appellant did not submit a psychological report to challenge the findings of the IFP psychologist. Consequently, the appellant was informed that there was no basis to disturb the determination in the matter.

In a supplemental response, the appellant indicates that he was appointed as a Police Officer with the City of East Orange, effective July 8, 2016, and had passed his psychological examination for that position. The psychological examination for both the City of Newark and the City of East Orange were conducted by IFP. However, the appellant states that he is not interested in pursuing a transfer to the City of Newark, but he is "interested in amending his date for seniority purposes." He notes that he has matured during the intervening time between the two evaluations, has acquired some work experience, and attended county college. Thus, he submits that the first report "should be clarified" that he needs time to gain work experience and mature, but not that he was psychologically unfit to become a Police Officer. It is noted that agency records reveal that the appellant resigned in good standing from the City of East Orange effective July 30, 2017.

CONCLUSION

N.J.A.C. 4A:4-6.3(b) provides that the appointing authority shall have the burden of proof in medical or psychological disqualification appeals.

In the instant matter, the appointing authority submitted IFP's September 16, 2015 report, which did not recommend the appellant for appointment but noted "with some work experience and some time to mature a bit, he may be seen as a better candidate." The appellant did not submit a challenge to that finding. While IFP conducted an evaluation for the City of East Orange, the evaluation and report were issued subsequently, consistent with its finding that "with some time," the appellant "may be seen as a better candidate. Further, even if the appellant submitted a challenge to the initial IFP finding and the Commission granted his appeal, the appellant's date of appointment with the City of East Orange would not change. The retroactive date of appointment afforded to him would be for the position of Police Officer, City of Newark. Therefore, under these circumstances,

the appointing authority has presented a sufficient basis to remove the appellant's name from the subject eligible list.

It is emphasized that 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. Examples of work also 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. The knowledge and abilities needed for these duties are in the areas of concern noted by the IFP's psychologist in evaluating the appellant.

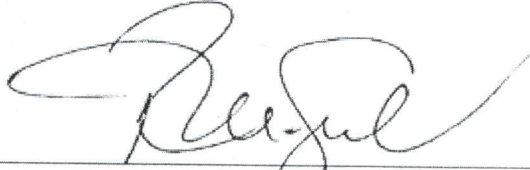
Accordingly, the Commission has reviewed the job specification for Police Officer and the duties and abilities encompassed therein and finds that the psychological traits which were identified and supported by test procedures and the behavioral record at the time of the initial IFP evaluation relate adversely to the appellant's ability to effectively perform the duties of the title. Therefore, the appellant's appeal is denied.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that D.A. was psychologically unfit to perform effectively the duties of a Police Officer, City of Newark, at the time of his evaluation 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 15TH DAY OF NOVEMBER, 2017



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