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STATE OF NEW JERSEY

In the Matter of B.T., Correction
Officer Recruit (S9988T),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-4163

Medical Review Panel

ISSUED: NOV 16 2017 (DASV)

B.T., represented by Ricardo P. Gonzalez, Esq., appeals his rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove his name from the eligible list for Correction Officer Recruit (S9988T) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was referred for independent evaluation by the Civil Service Commission (Commission) in a decision rendered July 13, 2017, which is attached. The appellant was evaluated by Dr. Susan A. Furnari, who rendered the attached Psychological Evaluation and Report on August 3, 2017. No exceptions were filed by the parties.

The Psychological Evaluation and Report by Dr. Furnari discusses the evaluation procedure and reviews the previous psychological findings relative to the appellant. In addition to reviewing the reports, recommendations and test data submitted by the previous evaluators, Dr. Furnari administered a clinical interview and the Inwald Personality Inventory-2 (IPI-2). Dr. Furnari found that the IPI-2 measure was valid, as the appellant responded to the IPI-2 in an honest and candid manner. Although there was one elevated scale, the appellant fell within the category of "likely to recommend" for employment in a public safety position. Additionally, Dr. Furnari addressed the concerns of the Medical Review Panel and the Commission regarding the appellant's alcohol use and recent resignation with the Juvenile Justice Commission (JJC). Dr. Furnari found that the appellant's statement that he did not have time to drink did not mean that if he had time he

would drink. Rather, the statement reflected a shift in the appellant's priorities as an adult and his life circumstances. Moreover, Dr. Furnari characterized the appellant as a responsible employee, earning awards and certificates in his current employment. Regarding his resignation with the JJC, the appellant clarified that he opted for resignation in lieu of dismissal from the academy due to his injury. Dr. Furnari did not find the appellant's lack of pursuit of medical attention in that case to be unusual when it is clear that certain injuries are able to resolve themselves with rest. Dr. Furnari concluded that the appellant was psychologically suitable to be employed as a Correction Officer Recruit.

CONCLUSION

Having considered the record and the Independent Psychological Report and Recommendation issued thereon, and having made an independent evaluation of same, the Commission accepts and adopts the findings and conclusions as contained in the attached Independent Psychological Report and Recommendation. Therefore, the appellant's appeal is granted.

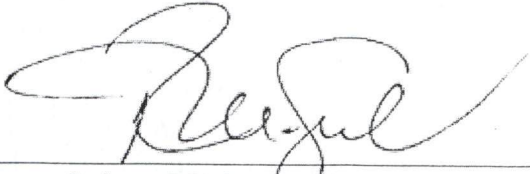
ORDER

The Civil Service Commission finds that the appointing authority has not met its burden of proof that B.T. is psychologically unfit to perform effectively the duties of a Correction Officer Recruit and, therefore, the Commission orders that his 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 appellant be granted a retroactive date of appointment to 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 or counsel fees, 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 15TH DAY OF NOVEMBER, 2017



Robert M. Czedo, Chairperson
Civil Service Commission

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Attachments

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