



In the Matter of K.C., Correction Officer Recruit (S9988T), Department of Corrections	:	<b>STATE OF NEW JERSEY</b>
	:	<b>FINAL ADMINISTRATIVE ACTION</b>
	:	<b>OF THE</b>
	:	<b>CIVIL SERVICE COMMISSION</b>
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CSC Docket No. 2017-3099	:	Medical Examiners Panel Appeal
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**ISSUED: MARCH 29, 2018 (DASV)**

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K.C. appeals the request by the Department of Corrections to remove her name from the Correction Officer Recruit (S9988T) eligible list for medical unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Examiners Panel (Panel) on September 13, 2017, which rendered the attached report and recommendation on September 18, 2017. The appellant was present at the meeting, and Dr. Donna Reger was present on behalf of the appointing authority. Exceptions were filed by the appellant.

*N.J.A.C. 4A:4-6.5* provides for the Civil Service Commission (Commission) to utilize the expertise of the Panel to make a report and recommendation on medical disqualification issues. The Panel is composed of medical professionals, all of whom are faculty and practitioners of Rutgers New Jersey Medical School.

In this case, the Panel's Chairman, Lawrence D. Budnick, MD, Director of Occupational Medicine Service and Associate Professor of Medicine, Rutgers New Jersey Medical School, requested a medical specialist to perform a chart review and to make findings and recommendations regarding the appellant's medical fitness for the job in question. Based on the evaluation of submitted information and the medical consultant's review, the Panel recommended that the appellant be provided with a repeat physical examination to determine her current capability to undergo the physical training and perform the essential functions of a Correction Officer Recruit.

As set forth in the Panel's report, on March 7, 2017, the appointing authority advised the appellant that she was not medically fit for appointment due to an increased body mass index (BMI) of over 40 kg/ m<sup>2</sup>. Specifically, the February 7, 2017 pre-appointment medical examination revealed that the appellant had a BMI of 42.04 kg/m<sup>2</sup>, as she weighed 228 pounds and was five foot and five inches tall. Moreover, the appellant sustained a lumbar strain in January 2017. The appointing authority provided the appellant's personal physician with notification that the appellant did not pass the medical examination due to having a BMI outside the established range. The appellant's personal physician concurred on February 24, 2017, documenting that the appellant was "not fit for training at the Correction Staff Training Academy." Subsequently, the appellant's personal physician and chiropractor cleared her for training and to work with no restrictions on March 21, 2017 and March 17, 2017 (faxed undated note), respectively. Upon review, the Panel found that the elevated BMI would not necessarily limit the appellant's ability to perform the essential functions of the position sought. However, "at the time of the medical examination," the appellant "had an impairment or functional limitation that limited her ability to perform the essential functions or cause a direct threat to herself or others," namely, her back injury. Nonetheless, the Panel noted that the back injury had resolved itself within the next two months. Therefore, as noted above, it recommended that the appellant undergo a repeat examination.

In her exceptions, the appellant states that the medical documentation is incorrect, as she is six feet tall and weighs 228 pounds, resulting in a BMI of 30.9 Kg/m<sup>2</sup>. She indicates that no one questioned her at the Panel meeting why her height was recorded as five feet and five inches. Thus, she is asking the Commission to reconsider her disqualification for the position.

## **CONCLUSION**

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 as contained in the Panel's report, but does not accept its recommendation for the appellant to undergo a repeat physical examination. Notwithstanding the appellant's corrected BMI as set forth in her exceptions and the Panel's conclusion that even the elevated BMI would not necessarily limit the appellant's ability, the appellant was not cleared for training by her personal physician as of February 24, 2017. The appellant also sustained a back injury in January 2017. It was not until March 17, 2017 and March 21, 2017 did her chiropractor and personal physician clear her for training. As such, the Panel determined that, "at the time of the medical examination," the appellant "had an impairment or functional limitation that limited her ability to perform the essential functions or cause a direct threat to herself or others." The Commission notes that consideration of a candidate occurs at a specified period of time. A

candidate must be available and medically capable of undergoing the training involved for the position sought at the time the candidate's application is considered. In this case, although the appellant's back injury may have resolved itself within two months of the pre-appointment medical examination, she was not cleared for training at the time of the appointing authority's March 7, 2017 determination. Therefore, the record demonstrates that the appellant was not medically fit for the position at the time of her consideration for appointment. Accordingly, her appeal is denied.

## **ORDER**

The Commission finds that the appointing authority has met its burden of proof that K.C. was not medically fit to perform effectively the duties of the title and, therefore, the Commission orders that her 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 27<sup>TH</sup> DAY OF MARCH, 2018



Deirdre L. Webster Cobb  
Acting Chairperson  
Civil Service Commission

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Attachment

c: K.C.  
Veronica Tingle  
Kelly Glenn