



B-29

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of F.C., Police Officer
(S9999R), Pleasantville

CSC Docket No. 2015-3064

Medical Review Panel Appeal

ISSUED: JUN - 9 2017 (BS)

F.C. appeals his rejection as a Police Officer candidate by the Pleasantville Police Department 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.

This appeal was brought before the Medical Review Panel on April 21, 2016, which rendered its report and recommendation on May 1, 2016. Exceptions were filed on behalf of the appellant.

The report by the Medical Review Panel discusses all submitted evaluations. It notes that Dr. Jennifer Kelly (evaluator on behalf of the appointing authority), conducted a psychological evaluation of the appellant and noted that the appellant was 20 minutes late for his appointment. Dr. Kelly characterized the appellant as having been terminated from his prior employment at the Arc of Atlantic City for engaging in an argument with a co-worker in front of clients. The appellant acknowledged that he could have just walked away but admitted that when he "feels attacked," he responds "back in kind" and that if someone comes at him, he is "going to match them." Dr. Kelly noted that a similar incident occurred while the appellant was serving in the U.S. Air Force. Also, in 2004, the appellant received a non-judicial punishment for indecent assault stemming from an incident where he injured his girlfriend with his genital piercings during sexual intercourse. Although the appellant was aware he was hurting her, due to their "S & M lifestyle," he did not "think anything of it." Dr. Kelly further noted that the appellant had a domestic violence arrest in Colorado in 2007. During this incident, while arguing,

the appellant was pushed down the stairs by his girlfriend, to which the appellant responded by pushing her back and fracturing her facial bone in the process. The appellant eventually pled guilty to an assault charge. Although the psychological testing results were within normal ranges, Dr. Kelly concluded that the appellant was at a high risk for job related deficiencies in the areas of emotional dysregulation/stress tolerance, impulse control/attention to safety, and integrity, as well as moderate risk for deficiencies. Dr. Kelly failed to recommend the appellant for appointment to the subject position.

Dr. Andrew Zmuda, evaluator on behalf of the appellant, carried out a psychological evaluation and indicated that, following the 2007 assault, the appellant successfully completed anger management classes. The 2004 non-judicial punishment for indecent assault was attributed to "a rough sexual experience with his girlfriend" whom he has since married. Although the appellant's employment history was discussed, Dr. Zmuda noted that the appellant's recent termination by the Arc of Atlantic County was not. Dr. Zmuda concluded that the appellant was qualified for the position and opined that he was "emotionally stable and able to maintain self-control. He appears to have a healthy level of self-awareness and a deep sense of his relationship and responsibility to others." Dr. Zmuda further opined that, "concerns over potential risk behaviors are overshadowed by his history of prosocial, positive attitudes and behaviors." Dr. Zmuda could find no reason why the appellant was not psychologically fit to serve as a Police Officer.

The evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. The Panel concluded that the negative recommendation found support in Dr. Kelly's findings that the appellant was at risk due to issues related to emotional dysregulation/stress tolerance, impulse control/attention to safety, and integrity. The Panel reviewed the 2004 and 2007 incidents, Dr. Zmuda's positive assessment, and a number of letters of recommendation. The Panel remained concerned with the appellant's behavioral history, particularly the 2005 indecent assault and 2007 assault. The Panel noted that while the Personality Assessment Inventory (PAI) administered to the appellant was unremarkable, there were indications in the results of the California Personality Inventory (CPI) was reflective of ongoing issues related to the appellant's personality that could interfere with his ability to perform the duties of the position. The relatively recent incident involving his termination from the Arc of Atlantic Counter was of particular concern to the Panel due to his documented assertion that when he "feels attacked I respond back in kind-if someone comes at me I'm going to match them." The Panel opined that these incidents and his attitude are indicative of ongoing psychological factors that increase risk of being able to successfully perform in a law enforcement position. The Panel found that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police Officer, indicate that the candidate is psychologically unfit to perform effectively the duties of the position sought, and therefore, the

action of the hiring authority should be upheld. The Panel recommended that the appellant be removed from the eligible list.

In his exceptions, the appellant asserts that he feels that no matter how he defends himself, he comes off as "trying to be right or aggressive." He argues that he had a successful career in the military, yet it appears this was not taken into consideration. The appellant denies the statement attributed to him that when he "feels attacked I respond back in kind-if someone comes at me I'm going to match them" as being paraphrased and taken out of context. The appellant further argues that Dr. Zmuda's positive evaluation was "glossed over" by the Panel and that he would be "an amazing asset" to the Pleasantville Police Force.

CONCLUSION

The Class Specification for 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 has reviewed the job specification for this title and the duties and abilities encompassed therein and found that the psychological traits which were identified and supported by test procedures and the behavioral record relate adversely to the appellant's ability to effectively perform the duties of the title. The Commission finds that the appellant's exceptions do not persuasively dispute the findings and recommendations of the Panel in this regard. The Panel's concerns centered on the appellant's behavioral history, attitude, and indications of emotional dysregulation/stress tolerance, impulse control/attention to safety, and

integrity, all of which are not conducive to an individual who aspires to a successful career in law enforcement.

With regard to the appellant's assertion that the Panel "glossed over" Dr. Zmuda's report when making its report and recommendation, the Commission notes that 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. The Panel's observations regarding the appellant's behavioral 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 appellants.

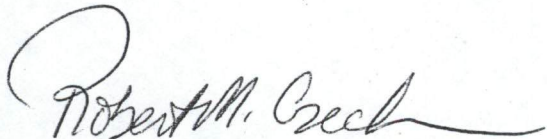
Having considered the record and the Medical Review Panel's report and recommendation issued thereon and the exceptions filed on behalf of the appellant, and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the attached Medical Review Panel's report and recommendation.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that F.C. 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 7TH DAY OF JUNE, 2017



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Attachments

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