



STATE OF NEW JERSEY

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

In the Matter of M.E., Police Officer
(S9999U), Newark

CSC Docket No. 2018-3493

Medical Review Panel Appeal

ISSUED: October 28, 2019 (BS)

M.E., represented by Bette R. Grayson, Esq., appeals his rejection as a Police Officer candidate by the Newark Police Department and its request to remove his name from the eligible list for Police Officer (S9999U) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on March 27, 2019, which rendered its report and recommendation on April 6, 2019. Exceptions were filed by the appellant.

The report by the Medical Review Panel discusses all submitted evaluations. Dr. Nicole J. Rafanello, evaluators on behalf of the appointing authority, conducted a psychological evaluation and characterized the appellant as reporting different information in different contexts and that he was guarded regarding his driving record. Dr. Rafanello noted the appellant’s history of fighting, arrests, and difficulties at his places of employment. The testing produced several unfavorable indicators on one test and the results of two other tests were invalid. As a result, Dr. Rafanello opined that was impossible to certify whether the appellant was free from emotional or mental impairment. Dr. Rafanello failed to recommend the appellant for appointment.

Dr. Chester Sigafos, evaluator on behalf of the appellant, conducted a psychological evaluation and characterized the appellant as “a man whose psychological functioning is marked with self-imposed checks and balances.” Dr. Sigafos’ testing showed no indications of “clinically significant somatic, cognitive,

emotional, thought, or behavioral dysfunction.” Dr. Sigafos concluded that the appellant was psychologically fit to perform the duties of a Police Officer.

The Panel concluded that the negative recommendation found support in the appellant’s history of fights, work issues, and arrests. The appellant’s description of his termination from employment with FedEx was more consistent with being fired than laid off, as the appellant claimed. The Panel found the appellant to be evasive when describing a joyriding incident, with significant differences in the account given to Dr. Rafanello than the one given the Panel. Although this incident took place sometime ago, the appellant’s account was current and consistent with Dr. Rafanello’s opinion that the appellant reports different information in different contexts. 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 mentally 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 the were “discrepancies” in Dr. Rafanello’s report and the Panel refused to allow his attorney to question Dr Rafanello regarding these alleged “discrepancies.” The appellant argues that all of the incidents of concern to Dr. Rafanello and the Panel occurred prior to 2011 with the exception of issues such as “punctuality and checking food dates” while employed by Aristocare in 2015. The appellant claims that all his test scores were in “normal” ranges and that he did not test “at risk” in any areas. The appellant completed an affidavit in support of his appeal. The appellant argues that the reports and recommendation of Dr. Rafanello and Panel should be disregarded in favor of that of Dr. Sigafos and that the appellant should be restored to the eligible list.

CONCLUSION

The Job Specification for the title, 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 was not persuaded by the exceptions filed by the appellant. The Commission notes that the Panel conducts an independent review of the raw data presented by the parties as well as the 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 and its experience reviewing thousands of applicants. With regard to the appellant's attorney not being allowed to question Dr. Rafanello at the Panel meeting, the Commission further notes that the Panel meeting is not a plenary hearing where testimony is taken, and does not require the presence of the appellant, his representative or the evaluators whose reports are reviewed. The purpose of the appellant's appearance at the meeting is for the Panel to have the opportunity to have the appellant address any questions or concerns it has after its review of the evaluators' reports and test data to clarify and observe how an appellant presents himself and responds during the Panel meeting. Having considered the record and the Medical Review Panel's report and recommendation issued thereon and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the Medical Review Panel's report and recommendation.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that M.E. 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 23RD DAY OF OCTOBER, 2019

Deirdre' L. Webster Cobb

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