

which is completed by a candidate at the time of an evaluation. Moreover, Dr. Gallegos stated that the appellant had been attending counseling since 2008 and was prescribed antidepressant medication until 2015. However, the appellant denied having experienced symptoms since 2011. Further, Dr. Gallegos found concerning an incident with the appellant's ex-girlfriend. In 2017, the appellant and his ex-girlfriend were arguing in his car and she jumped out of the car while it was moving. The appellant was not charged for this incident. However, the appellant failed to disclose the incident to Dr. Gallegos. Dr. Gallegos also stated that the psychological test data revealed that the appellant was attempting to present himself in an overly favorable light and was at high risk for having integrity problems. Therefore, based on these concerns, Dr. Gallegos did not recommend the appellant for a Parole Officer Recruit position.

The appellant submitted two independent psychiatric evaluations. In a report dated November 9, 2018, Dr. Martin Silverman did not find a psychiatric reason to preclude the appellant from a Parole Officer Recruit position and stated that he possessed "all the requisite personal attributes for such a position." As to the appellant's PTSD, Dr. Silverman opined that "[f]ollow up after [PTSD] treatment is not continuing treatment that the IFP report depicts it to be. Anger and concentration and memory problems are to be expected to be part of [PTSD] treatment. Veterans who have had Military combat experiences that produce [PTSD] never totally and 100% get over it. It always leaves some scars." Dr. Silverman further stated that the appellant has made an "excellent recovery" and "is not significantly disturbed at this point." Dr. Daniel Gollin also carried out a psychiatric evaluation and indicated that the appellant's evaluation and history failed to support Dr. Gallegos' conclusions. Dr. Gollin noted that the appellant's test results only revealed a tendency to present himself favorably, but the other measures reflected "overwhelmingly favorable results." Moreover, Dr. Gollin opined that the appellant's PTSD, "while significant, did not rise to the level of affecting his ability to work or warrant the requirement that he continuously take psychiatric medication." Accordingly, Dr. Gollin found that the appellant to be psychiatrically and psychologically well-suited to serve as a Parole Officer Recruit.

The evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. While the Panel reviewed the appellant's behavioral record, including the 2017 incident with his ex-girlfriend, what it found to be of most concern was the appellant's receipt of compensation from the military for a 50% disability designation for PTSD. The Panel indicated that the appellant's last compensation and pension (C & P) disability examination was on March 14, 2014 with a mental health follow-up appointment in 2018. The Panel was provided with the Progress Notes of the 2014 evaluation. Initially, the appellant had reported symptoms of PTSD, including nightmares, irritability, intrusive memories, loss of interest, exaggerated startle response, and anxiety in crowded spaces. The examiner stated that the appellant's "symptoms have

improved since his last examination; however, he continues to struggle with anger and concentration and memory problems. The patient's PTSD does not significantly interfere with his ability to maintain gainful employment," but that he continues to meet the criteria for PTSD. During the Panel meeting, with the exception of hypervigilance, the appellant denied having any symptoms of PTSD, as well as the items that he endorsed in the last C & P examination. The appellant also denied refilling the psychiatric medication prescribed to him and reported that he last took medication in 2015. Based on this information, the Panel's concern was that the appellant was still collecting a disability payment for PTSD, for which he no longer qualifies. The appellant has taken no action since 2015, when he stopped his psychiatric medication, or in 2018 at his last mental health follow-up appointment to correct this issue. The Panel concluded that the appellant "probably did not intend to be dishonest or [to] lack integrity." However, "this action and/or lack of action to correct this issue is of serious concern for an individual who wants to be a Parole Officer Recruit for the State Parole Board. Integrity is an important component of Parole Officer work." Therefore, the Panel concluded that the negative recommendation found support in the appellant's presentation and recommended that the appellant be removed from the subject eligible list.

In his exceptions, the appellant argues that the Panel "unexpectedly announc[ed] a totally different – and incorrect – theory from that expressed by any examining professional" to determine the appellant's ineligibility for the position. He maintains that the reports of Drs. Silverman and Gollin rebutted Dr. Gallegos' conclusion that he was not psychiatrically suited for a Parole Officer Recruit position. He maintains that he was examined more comprehensively by Drs. Silverman and Gollin, who unequivocally found him suitable. Moreover, the appellant notes that the Panel did not appear to dispute that he is currently mentally capable of performing the duties of the position. With regard to his receipt of disability payments, the appellant states that the Veterans Administration (VA) and his counselor are fully aware that he is continuing his significant recovery from PTSD and have concluded that he is entitled to receive a partial disability payment. In support of his appeal, the appellant submits a certification, dated August 8, 2019, noting that his disability payments included compensation for asthma and peripheral neuropathy. He stresses that the VA never considered his combined disability to disqualify him from gainful employment. Specifically, the appellant argues that "there is nothing inconsistent" in his receipt of a partial disability payment and the conclusion that he is capable of performing the essential functions of a Parole Officer Recruit. Furthermore, the appellant asserts that there is no legal requirement that he must "self-report" that he is recovered from one of his disabilities and should not be entitled to payment. It is noted that the appellant certifies that he still attends VA counseling and was seen as recently as nine months prior to his certification. He notes that his counselor concurred that his PTSD condition "had improved markedly since 2014" and encouraged him to seek a position as a Parole Officer Recruit. In conclusion, the appellant maintains that the

Panel's "theory is not based on either facts or law" and "it should also be obvious that a finding that he 'lacks integrity' is so inconsistent with the facts that it must be summarily reversed."

In its cross exceptions, the appointing authority submits that there are discrepancies surrounding the appellant's PTSD diagnosis and his receipt of disability benefits which cannot be ignored. Firstly, it indicates that although the appellant answered "yes" to having consulted with a mental health professional for "depression" in his Biographical Summary Form,³ he did not disclose that his diagnosis was PTSD or that his disability payments included compensation for the PTSD. Rather, he reported that he received a total of "80%" for conditions in his knee, foot, back and for asthma. The appointing authority states that the appellant informed Dr. Gallegos during their interview that the 50% designation for the disability payment was for PTSD. Secondly, the appellant informed Dr. Gallegos that he had not suffered from symptoms of PTSD since 2011. However, in the 2014 C & P examination, it was noted that the appellant still had symptoms which resulted in a continued diagnosis of PTSD. The appointing authority argues that these inconsistencies call the appellant's integrity into question. Further, it states that the reasons that Dr. Gallegos found the appellant unsuitable were because he evidenced "emotional dysregulation, poor stress tolerance and poor integrity." The tests administered to the appellant also supported the appellant as being at high risk for integrity problems. In that regard, the appointing authority explains that a parole officers' reports must be accurate and their credibility should never be an issue. In addition, the appointing authority submits that while the appellant argues that he was "blindsided" by the Panel's concerns with his continued receipt of disability payments, Dr. Gallegos shared the same concerns as the appellant did not initially disclose the PTSD diagnosis. Furthermore, it is clear from the 2014 C & P examination that the appellant's disability designation included PTSD and not just for his multiple injuries, which the appointing authority argues is further evidence of the appellant's credibility issues. Lastly, regardless of whether the appellant had a legal requirement to report his recovery, the appointing authority maintains that "integrity demands that he provides truthful answers during psychological examinations." It submits that the appellant either lied to Dr. Gallegos that he has had no symptoms of PTSD as of 2011 or lied to the VA in 2014 that he in fact had symptoms to continue his receipt of disability benefits.

CONCLUSION

The Civil Service Commission (Commission) has reviewed the report and recommendation of the Panel, and having made an independent evaluation of the record, upholds the State Parole Board's request to remove the appellant's name

³ The appointing authority submits a copy of the appellant's Biographical Summary Form with its cross exceptions.

from the eligible list for Parole Officer Recruit (S1000U) on the basis of psychological unfitness to perform effectively the duties of the position, and but for the Panel's reasoning regarding the appellant's "action and/or lack of action" to correct his receipt of disability payments with respect to his integrity, adopts the Panel's findings of fact and other reasons for such disqualification.

The Job Specification for the title of Parole Officer Recruit is the official job description for such positions within the Civil Service system. According to the specification, Parole Officer Recruits receive training in order to qualify as peace officers for the detection, apprehension, arrest, and conviction of offenders. They are also responsible for the care, use and security of firearms and equipment; the participation in investigations of existing and potential employment opportunities for persons on parole; assisting in investigations and in developing parole plans for prospective parolees; learning to recognize and rapidly evaluate potentially dangerous situations involving parolees/parole violators; exercising caution and independent judgment to avoid personal injury or to prevent endangerment of the general public or serious property damage; being a liaison with law enforcement agencies, courts, employers, clergymen, school officers, welfare agencies, and civic and business organizations, and with relatives of parolees and others for the purpose of rehabilitating persons on parole; and the coordination of parolees' collection efforts of court-imposed revenue obligations with other government or private agencies in the event of default.

At issue is the appellants' diagnosis of PTSD and whether the circumstances surrounding the receipt of disability payments adversely relate to the duties and responsibilities of a Parole Officer Recruit which would psychologically disqualify him from the position. It is undisputed that, in March 2014, the appellant continued to struggle with anger, concentration, and memory problems, for which he was diagnosed with having PTSD and received disability compensation as a result. The appellant continues to receive such compensation and argues that "there is nothing inconsistent" in his receipt of a partial disability payment and the conclusion that he is capable of performing the essential functions of a Parole Officer Recruit. However, the Commission disagrees. While the appellant self-reports that he no longer has symptoms of PTSD, he has been diagnosed by the VA as having PTSD as a result of his deployment. The appellant currently continues with VA counseling and reports that the VA and his counselor are fully aware of his continued significant recovery from PTSD and that he is entitled to receive a partial disability payment. In other words, the PTSD diagnosis has not yet been lifted and the appellant is still receiving compensation for that disability. Although the appellant may have sustained injuries for which he also receives benefits, he has not submitted any documentation from the VA that his reported 50% disability designation is not attributable to his PTSD. Thus, the appellant's arguments in that respect are not persuasive.

As for whether the diagnosis precludes the appellant from the position sought, the Commission finds that having issues with anger, concentration, and memory adversely relate to the duties of a Parole Officer Recruit. A calm demeanor and the ability to fully concentrate and recall detail are crucial for the security of firearms, the recognition and evaluation of potentially dangerous situations, and the exercise of caution and independent judgment to avoid personal injury or to prevent endangerment of the general public or serious property damage. The Commission notes that while the VA indicated that the appellant's PTSD "does not significantly interfere with his ability to maintain gainful employment," the VA is not tasked with finding whether the appellant is suitable for a position as a Parole Officer Recruit. It is within the exclusive jurisdiction of the Commission to determine a dispute in that regard.

Moreover, a Parole Officer Recruit must have integrity and be truthful in the performance of his or her duties. Central to the Panel's recommendation to reject the appellant was due to his "action and/or lack of action to correct" his receipt of disability payments when he claims that he is symptom free. The Panel found that this unresolved issue cast doubt on the appellant's integrity. However, the Commission cannot accept the Panel's assessment of the appellant in that regard since it is not within the purview of the Commission to determine the appellant's obligation to report his current condition to the VA, and in turn, whether his inaction casts doubt on his integrity. The appellant emphasizes that the VA and his counselor are fully aware of his continuing significant recovery from PTSD, and despite such knowledge, he continues receiving benefits. However, what the Commission finds disturbing and casts doubt on the appellant's integrity is his lack of candor regarding his PTSD diagnosis during his pre-appointment psychological examination. The appointing authority submits the appellant's Biographical Summary Form, which reflects that the appellant did not disclose his PTSD diagnosis and that his disability payments compensated him for that condition among other conditions. Rather, he reported that he receives a total of "80%" for conditions in his knee, foot, back and for asthma.

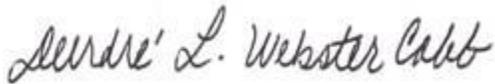
Under these circumstances, the Commission finds that the negative recommendation of Dr. Gallegos that the appellant's behavioral record evidenced "emotional dysregulation, poor stress tolerance and poor integrity" is supported in the record and does not find the appellant's challenges to the report nor his exceptions to the Panel's recommendation sufficiently persuasive to restore his name to the subject eligible list. The Commission emphasizes that the appellant must be psychologically suited for the position at the time he is considered for appointment. The fact remains that the appellant was being considered for appointment in 2018, and since before that time to the present, he has had a diagnosis of PTSD. He also demonstrated a lack of candor regarding his PTSD diagnosis during the pre-appointment evaluation. Accordingly, for the reasons set forth above, the Commission cannot grant the appellant's appeal.

ORDER

The Commission finds that the appointing authority has met its burden of proof that E.R. is psychologically unfit to perform effectively the duties of a Parole Officer Recruit 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 6TH DAY OF NOVEMBER, 2019



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