



**STATE OF NEW JERSEY**

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

In the Matter of X.D., Correctional  
Police Officer (S9988V),  
Department of Corrections

CSC Docket No. 2019-3308

Medical Review Panel Appeal

**ISSUED: APRIL 12, 2021 (DASV)**

X.D., represented by Randy P. Davenport, Esq., appeals his rejection as a Correctional Police Officer candidate by the Department of Corrections and its request to remove his name from the eligible list for Correctional Police Officer (S9988V) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was referred for independent psychological evaluation by the Civil Service Commission (Commission) in a decision rendered June 17, 2020. The Commission agreed with the recommendation of the Medical Review Panel (Panel) and directed that the appellant's evaluation include an in-depth cognitive assessment of the appellant for a Correctional Police Officer position. *See In the Matter of X.D.* (CSC, decided June 17, 2020). The appellant was evaluated by Dr. Robert Kanen, who issued a Psychological Evaluation and Report on January 22, 2021.<sup>1</sup> Exceptions were filed on behalf of the appellant.

The Psychological Evaluation and Report by Dr. Kanen 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. Kanen administered the following: Clinical

<sup>1</sup> It is noted that the appellant did not contact Dr. Kanen within 15 days of the issuance date of the Commission's determination. Consequently, the matter was considered closed. However, the appellant later certified that he did not receive the determination and was permitted to contact Dr. Kanen by no later than January 27, 2021 to schedule an appointment.

Interview/Mental Status Examination; Wechsler Adult Intelligence Scale, 4<sup>th</sup> Edition; Wide Range Achievement Test - Revision 3, and the Inwald Personality Inventory-2. Dr Kanen's report set forth the appellant's interview findings, background information, mental status examination results, psychiatric history, substance abuse and antisocial behavioral record, and the results of the psychological testing that Dr. Kanen administered. Dr. Kanen reported that the appellant is functioning in the borderline range of cognitive ability with an estimated full-scale IQ of 70, placing him above 2% and below 98% of his age group. In addition, Dr. Kanen found that the appellant showed deficits in verbal comprehension and reasoning, which "leaves him at risk for poor judgment." The appellant also demonstrated difficulty concentrating and focusing. He fell into the category "not likely to recommend for employment in a public safety/security position" and "not likely to meet expectations on his ability to write clear, complete, and accurate reports." Dr. Kanen noted that the appellant did not understand many of the questions, which was "supported by his idiosyncratic responses to the Personality Assessment Inventory during his initial psychological evaluation." Based on the test results, Dr. Kanen determined that the appellant is functioning significantly below that of the average law enforcement officer.

In conclusion, Dr. Kanen opined that the appellant "is at risk for being overwhelmed when required to make a sound decision when faced with complex, sudden, and stressful events" and that his "[d]ifficulty recognizing visual information within a correctional facility would make him a security risk." Accordingly, Dr. Kanen concluded that the appellant is not psychologically suitable to perform the duties of the position sought.

In his exceptions, the appellant maintains that Dr. Kanen's report should not be considered by the Commission since Dr. Kanen did not "submit a proper 'psychological evaluation' but only submitted a cognitive assessment." In that regard, the appellant asserts that Dr. Kanen did not discuss the appellant, "the person," or how he functions in society, his motivations to serve in the position, or his strengths. Dr. Kanen only focused on negative aspects of the appellant's testing, and "never really discuss[d]" the reports of the previous evaluators. The appellant notes that Dr. Kanen did not perform a Personality Assessment Inventory. Furthermore, the appellant indicates that Dr. Kanen does not state how long his interview was. He argues that, without knowing the length of time of his interview, it is "impossible to determine whether an adequate time was spent" on his evaluation. The appellant contends that, if Dr. Kanen's report is considered, "he should be allowed to submit a rebuttal expert report," given that Dr. Kanen "did not submit an independent psychological report, but rather only submitted essentially a cognitive assessment."

## CONCLUSION

The Job Specification for Correctional Police Officer is the official job description for such State positions within the Civil Service system. According to the specification, a Correctional Police Officer exercises full police powers and acts as a peace officer at all times for the detection, apprehension, arrest, and conviction of offenders against the law. Additionally, a Correctional Police Officer is involved in providing appropriate care and custody of a designated group of inmates. These officers must strictly follow rules, regulations, policies and other operational procedures of that institution. Examples of work include: encouraging inmates toward complete social rehabilitation; patrolling assigned areas and reporting unusual incidents immediately; preventing disturbances and escapes; maintaining discipline in areas where there are groups of inmates; ensuring that institution equipment is maintained and kept clean; inspecting all places of possible egress by inmates; finding weapons on inmates or grounds; noting suspicious persons and conditions and taking appropriate actions; and performing investigations and preparing detailed and cohesive reports.

The specification notes the following as required skills and abilities needed to perform the job: the ability to understand, remember and carry out oral and written directions and to learn quickly from written and verbal explanations; the ability to analyze custodial problems, organize work and develop effective work methods; the ability to recognize significant conditions and take proper actions in accordance with prescribed rules; the ability to perform repetitive work without loss of equanimity, patience or courtesy; the ability to remain calm and decisive in emergency situations and to retain emotional stability; the ability to give clear, accurate and explicit directions; and the ability to prepare clear, accurate and informative reports of significant conditions and actions taken.

The Commission has reviewed the Job Specification for this title and the duties and abilities encompassed therein and finds 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. Specifically, as concluded by Dr. Kanen, the appellant lacks the cognitive ability to effectively perform the duties of a Correctional Police Officer. As set forth above, a Correctional Police Officer must have the ability to analyze custodial problems, recognize significant conditions and take proper actions in accordance with prescribed rules, remain calm and decisive in emergency situations, and prepare clear, accurate and informative reports of significant conditions and actions taken. The appellant has not persuasively challenged Dr. Kanen's evaluation to disturb his conclusion in this matter.

The Commission emphasizes that, in addition to his own evaluation and testing, Dr. Kanen conducts an independent review of the Panel's Report and

Recommendation and the raw data, recommendations and conclusions drawn by the various evaluators prior to rendering his own conclusions and recommendations, which are based firmly on his expertise in the field of psychology and his experience in evaluating the psychological suitability of hundreds of applicants for employment in law enforcement and public safety positions. Thus, the Commission does not find persuasive that Dr. Kanen failed to perform a proper psychological evaluation or considered the prior evaluators' findings. As set forth in his report, Dr. Kanen discussed the appellant's background and behavioral history and noted his review of the prior evaluations. This dispels the appellant's notion that Dr. Kanen did not consider him as "the person" or how he functions in society. Furthermore, the Commission ordered the in-depth cognitive assessment. As such, Dr. Kanen appropriately highlighted that aspect of his evaluation in his report.

In addition, the Commission defers to the expertise of its independent evaluators as to what psychological tests are to be used in these matters. Nonetheless, in response to the appellant, Dr. Kanen noted the issues of the first Personality Assessment Inventory and conducted his own personality testing through the Inwald Personality Inventory-2. Moreover, the Commission is satisfied that Dr. Kanen spent an adequate amount of time examining the appellant as evidenced by the interview findings, which has not been rebutted, and the various tests that the appellant took. Lastly, pursuant to *N.J.A.C. 4A:4-6.5*, the appellant was provided with his regulatory entitlement to submit his own psychological evaluation and present exceptions to the Panel's recommendation referring him for an independent evaluation and to Dr. Kanen's report. In other words, the appellant has had ample opportunity to present arguments in pursuit of his appeal, which could have included a "rebuttal expert report" if he so chose. Accordingly, the Commission does not find the appellant's exceptions persuasive.

Therefore, having considered the record and the report and recommendation of the independent evaluator and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Psychological Evaluation and Report of the independent evaluator. Accordingly, the appellant's appeal is denied.

### **ORDER**

The Commission finds that the appointing authority has met its burden of proof that X.D. is psychologically unfit to perform effectively the duties of a Correctional 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 7<sup>TH</sup> DAY OF APRIL, 2021

*Deirdre' L. Webster Cobb*

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