



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of M.F.,  
County Correction Officer (S9999R),  
Union County

CSC Docket No. 2017-2267

Medical Review Panel Appeal

ISSUED: AUGUST 17, 2018 (DASV)

M.F., represented by Michael G. Brucki, Esq., appeals his rejection as a County Correction Officer candidate by Union County and its request to remove his name from the eligible list for County Correction Officer (S9999R) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was referred for independent evaluation by the Civil Service Commission (Commission) in a decision rendered May 2, 2018, which is attached. On May 22, 2018, the appellant was evaluated by Dr. Susan A. Furnari, who rendered the attached Psychological Evaluation and Report. No exceptions were filed by the parties.

The Psychological Evaluation and Report by Dr. Furnari discusses the evaluation procedure and reviews the previous psychological findings relative to the appellant. In addition to reviewing the reports and test data submitted by the previous evaluators, Dr. Furnari administered the PsychEval Personality Questionnaire-Protective Services Report-Plus and the Sentence Completion Series-Adult and conducted a clinical interview of the appellant. Dr. Furnari noted that the Commission referred the appellant for psychological evaluation in order to assess the extent to which any potential problem with anger or aggression could affect his ability to properly carry out the responsibilities of a County Correction Officer. In that regard, Dr. Furnari found that the appellant took full responsibility for his late arrival and attire for the initial pre-employment evaluation. He was forthcoming and genuine in his responses and explained his misconception regarding whether he was arrested or not. Dr. Furnari emphasized that the

appellant, at no time, denied the assault that resulted in his arrest. As to the assault of a classmate, Dr. Furnari indicated that the appellant attempted on more than one occasion to resolve the matter until he was found in an "unenviable position" in which he responded in an aggressive and self-protective manner. Dr. Furnari determined that the appellant clearly does not have a problem with anger and aggression, as the appellant showed great restraint and only reacted when there was a real threat presented. Dr. Furnari stated that there was no other evidence in the appellant's history or psychological testing which suggests that he lacks the ability to respond appropriately to tension, conflict, or stress. Therefore, Dr. Furnari concluded that the appellant is psychologically suited for a position in law enforcement.

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### CONCLUSION

The Class Specification for the title of County Correction Officer is the official job description for such positions within the Civil Service system. According to the specification, officers are responsible for the presence and conduct of inmates as well as their safety, security and welfare. An officer must be able to cope with crisis situations and to react properly, to follow orders explicitly, to write concise and accurate reports, and to empathize with persons of different backgrounds. Examples of work include: observing inmates in a variety of situations to detect violations of institutional regulations; escorting or transporting individual and groups of inmates within and outside of the institution; describing incidents of misbehavior in a concise, factual manner; following established policies, regulations and procedures; keeping continual track of the number of inmates in his or her charge; and performing regular checks of security hazards such as broken pipes or windows, locks that were tampered with, unlocked doors, etc.

Having considered the record and the independent Psychological Report and Recommendation issued thereon, and having made an independent evaluation of the same, including a review of the job specification for the position sought, the Commission accepts and adopts the findings and conclusions as contained in the attached independent Psychological Report and Recommendation. Therefore, the appellant's appeal is granted.

### ORDER

The Commission finds that the appointing authority has not met its burden of proof that M.F. is psychologically unfit to perform effectively the duties of a County Correction Officer and, therefore, the Commission orders that the subject eligible list be revived and the appellant's name restored to the list. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans with Disabilities Act (ADA), 42 U.S.C.A.

§12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also* the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon the successful completion of his working test period, the Commission orders that appellant be granted a retroactive date of appointment of October 31, 2016, the date he would have been appointed if his name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

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 15<sup>TH</sup> DAY OF AUGUST, 2018



Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

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and  
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P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment

c: M.F.  
Michael G. Brucki, Esq.  
Michael M. Yuska  
Kelly Glenn



STATE OF NEW JERSEY

DECISION OF THE  
CIVIL SERVICE COMMISSION

In the Matter of M.F.,  
County Correction Officer (S9999R),  
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CSC Docket No. 2017-2267

Medical Review Panel Appeal

ISSUED: MAY 2, 2018 (DASV)

M.F., represented by Michael G. Brucki, Esq., appeals his rejection as a County Correction Officer candidate by Union County and its request to remove his name from the eligible list for County Correction 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 (Panel) on February 23, 2018, which rendered the attached report and recommendation. No exceptions were filed by the parties.

The report by the Panel discusses all submitted evaluations and the information obtained from the meeting. Of major concern was the appellant's potential for aggressive behavior. The appointing authority's evaluator, Dr. Robert Kanen, stated that the appellant "appears to be at risk for temper control problems" and "appeared to lack insight into his behavior and is prone to poor judgment." The appellant had been charged with aggravated assault and presented himself as "too aggressive" during his evaluation with Dr. Kanen. In contrast, the appellant's evaluator, Dr. Paul F. Fulford, found the appellant "cooperative" during his evaluation. Additionally, Dr. Fulford opined that the appellant appeared to have good judgment. Upon review, the Panel noted the concerns regarding the appellant's impulse control and questioned the appellant regarding the aggravated assault of a fellow student in 2010. The appellant was placed on probation and participated in an anger management program. The Panel indicated that the sequence of events that occurred in 2010 raised questions as to how well the appellant could handle conflicts with others, especially in a correctional facility.

The Panel concluded that further evaluation of the appellant's potential to respond to tension or conflict was necessary. Therefore, based on the evaluations, the test results of the appellant, and his presentation at the meeting, the Panel recommended that the appellant undergo an independent evaluation to assess the extent to which any potential problem with anger or aggression could affect his ability to properly carry out the responsibilities of a County Correction Officer.

### CONCLUSION

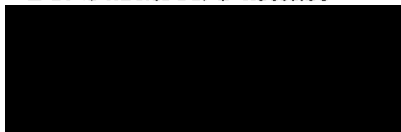
The Civil Service Commission (Commission) has reviewed the report and recommendation of the Panel. The Commission notes that the Panel conducts an independent review of the raw data presented by the parties as well as the recommendations and conclusions drawn by the various evaluators and that, in addition to the Panel's own review of the results of the tests administered to the appellant, it also assesses the appellant's presentation before it prior to rendering its own conclusions and recommendations which are based firmly on the totality of the record presented. The Commission agrees with the Panel's recommendation and finds it necessary to refer the appellant for an independent evaluation by a New Jersey licensed psychologist.

### ORDER

The Commission therefore orders that M.F. be administered an independent psychological evaluation. The Commission further orders that the cost incurred for this evaluation be assessed to the appointing authority in the amount of \$530. Prior to the Commission's reconsideration of this matter, copies of the independent evaluator's report and recommendation will be sent to all parties with the opportunity to file exceptions and cross exceptions.

M.F. is to contact Dr. Susan A. Furnari, the Commission's independent evaluator, within 15 days of the issuance of this determination in order to arrange for an appointment. Dr. Furnari's address is as follows:

Dr. Susan A. Furnari



If M.F. does not contact Dr. Furnari within the time period noted above, the entire matter will be referred to the Commission for final administrative determination and the appellant's lack of pursuit will be noted.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 2<sup>ND</sup> DAY OF MAY, 2018

*Deirdre' L. Webster Cobb*

Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

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Christopher S. Myers  
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Attachment

c: M.F.  
Michael G. Brucki, Esq.  
Michael M. Yuska  
Dr. Susan A. Furnari  
Kelly Glenn  
Annemarie Ragos