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In the Matter of A.G., Correction  
Officer Recruit (S9999K),  
Department of Corrections

STATE OF NEW JERSEY  
FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2013-2987

Medical Review Panel

ISSUED: **MAR 13 2015** (BS)

A.G., represented by Curtis J. La Forge, Esq., appeals his rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove his name from the eligible list for Correction Officer Recruit (S9987M) 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 in a decision rendered December 17, 2014, which is attached. The appellant was evaluated by Dr. Robert Kanen, who rendered the attached Psychological Evaluation and Report on January 26, 2015. No exceptions were filed by the parties.

The Psychological Evaluation and Report by Dr. Robert Kanen, the Civil Service Commission's independent evaluator, discusses the evaluation procedure and reviews the previous psychological findings relative to the appellant. In addition to reviewing the reports, letters, recommendations and test data submitted by the previous evaluators, Dr. Kanen administered the following: Clinical Interview/Mental Status Examination, Wechsler Adult Intelligence Scale, Third Edition, prorated (WAIS-3), Public Safety Application Form, Behavioral History Questionnaire, and the Inwald Personality Inventory. Dr. Kanen characterized the appellant as being in the low average range to average range of intelligence and having cognitive ability to function as a Corrections Officer Recruit. His responses to the Inwald Personality inventory indicated no evidence of mental illness. Additionally, there is no evidence of drug or alcohol related problems and no

evidence of significant motor vehicle infractions. There is little evidence of work adjustment difficulties and he does not appear to be at risk for significant antisocial behaviors. Dr. Kanen found the appellant to be flexible and able to effectively cope with moderate degrees of stress. Dr. Kanen noted the concerns expressed by the Medical Review Panel regarding the appellant's involvement in an inordinate number of incidents. However, after reviewing the documentation and interviewing the appellant, Dr. Kanen opined that these incidents did not reflect any underlying character issues. Dr. Kanen found that the appellant presented as polite and respectful, showing no evidence of temper control issues, and that he appeared capable of following rules and regulations. Dr. Kanen concluded that the appellant was psychologically suitable to be employed as a Correction Officer Recruit.

## CONCLUSION

Having considered the record and the Independent Psychological 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 attached Independent Psychological Report and Recommendation.

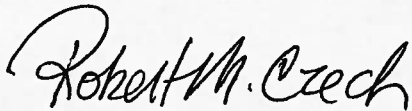
## ORDER

The Civil Service Commission finds that the appointing authority has not met its burden of proof that A.G. is psychologically unfit to perform effectively the duties of a Correction Officer Recruit and, therefore, the Commission orders that his name be restored to the subject eligible 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 to 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 4TH DAY OF MARCH, 2015**



**Robert M. Czech**  
Chairperson  
Civil Service Commission

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**Attachment**

**c: A.G.  
Curtis J. La Forge, Esq.  
Jennifer Rodriguez  
Kenneth Connolly**