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In the Matter of D.D., Parole Officer
Recruit (S0738M), State Parole Board

CSC Docket No. 2014-2323

:
 : **STATE OF NEW JERSEY**
 :
 : **FINAL ADMINISTRATIVE ACTION**
 : **OF THE**
 : **CIVIL SERVICE COMMISSION**
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Medical Review Panel

ISSUED: **SEP - 3 2015** (BS)

D.D. appeals her rejection as a Parole Officer Recruit candidate by the State Parole Board and its request to remove her name from the eligible list for Parole Officer Recruit (S0738M) 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 May 6, 2015, which is attached. The appellant was evaluated by Dr. Robert Kanen, who rendered the attached Psychological Evaluation and Report on May 25, 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, Public Safety Application Form, Behavioral History Questionnaire, and the Inwald Personality Inventory-2. Dr. Kanen characterized the appellant as being open and willing to reveal minor faults and shortcomings on personality testing. Dr. Kanen found no indication of anything in the personality testing which would interfere with the performance of her duties as a Parole Officer Recruit. Dr. Kanen opined that the appellant was "likely to meet expectations in terms of her ability to control conflict. Dr. Kanen concluded that the appellant was psychologically suitable to be employed as a Parole 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.

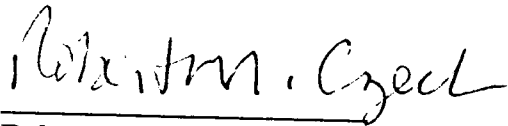
ORDER

The Civil Service Commission finds that the appointing authority has not met its burden of proof that D.D. is psychologically unfit to perform effectively the duties of a Parole Officer Recruit and, therefore, the Commission orders that her 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 her working test period, the Commission orders that appellant be granted a retroactive date of appointment to the date she would have been appointed if her 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 2ND DAY OF SEPTEMBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

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Attachment

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