



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

In the Matter of L.K., Correction
 Officer Recruit (S9999K),
 Department of Corrections

Medical Review Panel

CSC Docket No. 2013-2628

ISSUED: JUL 31 2014 (BS)

L.K., represented by Wieslaw S. Krajewski, 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 (S9999K) 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 March 13, 2014, which is attached. The appellant was evaluated by Dr. Robert Kanen, who rendered the attached Psychological Evaluation and Report on April 1, 2014. Exceptions were filed on behalf of the appellant.

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), and the Inwald Personality Inventory. Dr. Kanen characterized the appellant as having cognitive functioning in the low average range. Testing revealed that the appellant has severe deficits in verbal areas such as vocabulary and also in areas such as abstract reasoning, spelling and reading. Dr. Kanen indicated that the appellant was unable to give a valid personality test if he were required to read items and answer on his own. The appellant asked for

clarification on 40 Inwald Personality Inventory items and did not know the meanings of words such as sad, discouraged, anxious, blue, reckless, irritated, brushes with the law, annoyed, evil, tingling, deliberately, restless, faults, and justified. Many of these words have to do with feeling states. Dr. Kanen opined that the appellant processes English much too slowly which means that inmates would have difficulty communicating with him, and that could lead to some possibly dangerous situations. The appellant is likely to have difficulty understanding what inmates are trying to say to him. The needs of inmates who are under stress and/or mentally ill could go unmet with possibly dangerous consequences. The Civil Service Commission also requested that Dr. Kanen assess the possibility that the appellant was racially biased. Dr. Kanen noted that there was no evidence of racial bias. However, Dr. Kanen further offered that, to his knowledge, no one had actually developed a test that measures racial bias in law enforcement candidates. Aside from the appellant's difficulties with the English language, Dr. Kanen found no evidence of mental illness, personality disorder, substance abuse problems, or antisocial tendencies. The appellant was basically stable and responsible. Still, Dr. Kanen concluded that, at the present time, the appellant was not psychologically suitable to be employed as a Correction Officer Recruit but implied that he would be if he continues to improve his English communication skills.

In his exceptions, the appellant argues that there does not appear to be any nexus between the various psychological test results and Dr. Kanen's opinion regarding the appellant's language skills. In fact, Dr. Kanen specially states in his report that the appellant does not show any evidence of mental illness, personality disorder, substance abuse problems, or antisocial tendencies that would preclude him from working as a Correction Officer Recruit. The evaluation of Dr. Kanen is negative only due to the language issue, which the appellant argues is highly subjective. The appellant asserts that he understood English well enough to pass the civil service examination, without any assistance and within the allowed time frame, and that he also passed the background investigation to be considered for appointment. The appellant argues that Dr. Kanen provides no psychological basis for considering the appellant psychologically unsuitable. While the appellant's test scores were not the highest, they were not unacceptable. The main premise put forth by Dr. Kanen appears to be the appellant's grasp of the English language. However, Dr. Latimer, who evaluated the appellant on his own behalf, reported that "this patient has made excellent progress in the development of his vocabulary in English." The appellant questions how two experts can arrive at such different conclusions. The appellant also indicates that he runs a successful business with a majority of English speaking customers without any problems. The appellant respectfully requests that he be put back on the list and allowed to attend the academy. It will be during this period that he will be able to successfully perform as a Correction Officer Recruit. If not, the Department of Corrections can remove him. Additionally, once he graduates, the appellant will be on a one year probationary

period where he will have to continue to prove that he can speak English well enough to perform the duties of the position. Denying the appellant this opportunity would be a severe injustice to an immigrant who continues to learn every day the ways of American life.

CONCLUSION

The Class Specification for Correction Officer Recruit is the official job description for such State positions within the merit system. According to the specification, an 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 Civil Service Commission has reviewed the job specification for this title and the duties and abilities encompassed therein and found 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. The exceptions filed on behalf of the appellant do not persuasively dispute the findings and recommendations of Dr. Kanen. Specifically, the Commission shares the concerns of Dr. Kanen about the appellant's capacity to comprehend and process the English language under stressful circumstances in a correctional environment. Additionally, the Commission notes that the appellant's language difficulties prevented him from providing a valid profile on the Inwald Personality Inventory and it shares Dr. Kanen's concerns that the appellant became argumentative and authoritarian when confronted with his language difficulties.

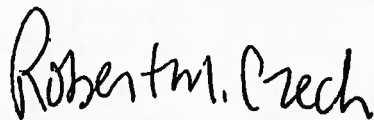
Accordingly, having considered the record and the report and recommendation of the independent evaluator and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the attached report and recommendation of the independent evaluator.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that L.K. is psychologically unfit to perform effectively the duties of a Correction 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 30TH DAY OF JULY, 2014**



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Attachment

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