

B-2



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

In the Matter of B.G., County
Correction Officer (C9979M), Essex
County

Medical Review Panel Appeal

CSC Docket No. 2014-897

ISSUED: **DEC 18 2014** (BS)

B.G. appeals her rejection as a County Correction Officer candidate by Essex County and its request to remove her name from the eligible list for Essex County (C9979M) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel on September 22, 2014, which rendered the attached report and recommendation on September 23, 2014. No exceptions were filed by the parties.

The report by the Medical Review Panel discusses all submitted evaluations. The test results and procedures and the behavioral record, when viewed in light of the Job Specification for County Correction Officer, indicate that the applicant is psychologically fit to perform effectively the duties of the position sought, and therefore, the action of the hiring authority should not be upheld. The Panel recommended that the candidate be restored to the eligible list.

CONCLUSION

Having considered the record and the Medical Review Panel's 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 Medical Review Panel's Report and Recommendation.

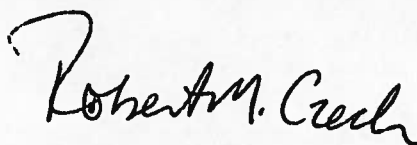
ORDER

The Civil Service Commission finds that the appointing authority has not met its burden of proof that B.G. is psychologically unfit to perform effectively the duties of a County Correction Officer 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 17TH DAY OF DECEMBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

**Inquiries
and
Correspondence:**

**Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312**

Attachment

**c: B.G.
Alan Abramowitz
Kenneth Connolly**