



STATE OF NEW JERSEY

**DECISION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of A.H.,
Police Officer (S9999A), Clifton

CSC Docket No. 2023-1463

Medical Review Panel Appeal

ISSUED: December 6, 2023 (BS)

A.H., represented by Valerie Palma Deluysi, Esq., appeals his rejection as a Police Officer candidate by Clifton and its request to remove his name from the eligible list for Police Officer (S9999A) 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 June 30, 2023, which rendered a Report and Recommendation on July 2, 2023. No exceptions were filed by the parties.

The report by the Panel discusses all submitted evaluations and the information obtained from the meeting. The negative indications related to the appellant’s decision-making ability, judgment, and stress tolerance. In that regard, Dr. Jennifer Buhler, evaluator on behalf of the appointing authority, conducted a psychological evaluation and characterized the appellant as being “superficially cooperative” and presenting as someone who was engaged in efforts at “positive impression management.” Dr. Buhler found the appellant unable or unwilling to candidly discuss his previous difficulties when he was serving as a Kinnelon Borough Police Officer. She noted that the appellant had a tendency to provide longwinded responses, and she had to redirect the appellant’s focus so that he remained on topic. Dr. Buhler opined that it appeared that the appellant resigned in lieu of being terminated. Per the background check, the appellant evidenced significant difficulties performing duties and responsibilities of a Police Officer independently. The appellant admitted to receiving a written reprimand for failure to respond

promptly to a call from an individual “in crisis” (suicidal) while serving as a Kinnelon Police Officer. By the appellant’s own admission, he had to ask colleagues what to do prior to responding to the call. Dr. Buhler expressed concerns that the delayed response had the potential for “fatal consequences” and could evidence difficulties with dependability. Additional performance notices from Kinnelon Borough Police Department included the appellant not wearing his body camera, getting into an argument with a Police Sergeant from a neighboring jurisdiction, and failure to answer his telephone for a recall. It is noted that the appellant failed to disclose these incidents to the appointing authority’s evaluator, who had to rely on the background investigation. The record further revealed some issues with attendance and tardiness in the appellant’s school records and previous employment. Dr. Buhler found that the test data supported her conclusions regarding the appellant. Dr. Buhler did not recommend the appellant for employment as a Police Officer.

The Panel’s report also set forth the findings of the appellant’s evaluator, Dr. David Pilchman, who conducted a psychological evaluation and concluded that the report submitted by Dr. Buhler represented a “misperception” of the appellant’s competence and character. Dr. Pilchman found that the appointing authority’s evaluation maintained a “somewhat negative bias, with little attempt to explore competencies and the substance of the multiple references” submitted by the appellant. Dr. Pilchman also noted that the appellant had successfully completed and passed other psychological evaluations. Moreover, Dr. Buhler had failed to include data from the COPS-R test, which measures areas such as relations with co-workers, honesty and integrity, judgment, productivity, relations with the public, rule compliance, use of sick time, and acceptance of supervision. Additionally, Dr. Pilchman indicated that, although important to this matter, Dr. Buhler did not attempt to integrate the stress that can be associated with the assessment process itself into her evaluation. Dr. Pilchman opined that a lack of clarity in responses does not necessarily represent evasiveness or a lack of integrity as is Dr. Buhler’s interpretation. Dr. Pilchman indicated that the appellant provided explanations for the reported incidents, his use of judgment, and his readiness to serve as a Police Officer and is dedicated to personal growth as he attempts to move forward with his career. In Dr. Pilchman’s professional opinion, the appellant qualifies as a positive candidate for the position of Police Officer.

The appellant was also evaluated on his behalf by Dr. Daniel Gollin, who conducted a psychiatric evaluation of the appellant and found that the negative information in Dr. Buhler’s evaluation came directly from documentation in the appellant’s disciplinary file without referencing information in the background investigation. Dr. Gollin noted that the background report included statements from the appellant’s field training officer, a Police Sergeant, and a Police Officer, who is a 30-year veteran of that police force, who stated that the appellant “got a raw deal.” All officers and other references described the appellant “positively” and opined that he would be a suitable candidate, and suggested in some cases, that he was able to

respond to and learn from training. Dr. Gollin stated that Dr. Buhler's report tended to take isolated negative information and interpret this information as indicative of a pattern. For example, Dr. Buhler noted that the appellant was reprimanded for lateness 11 years ago by his previous employer, but Dr. Buhler omitted a statement from one of the appellant's recent superiors, who indicated that the appellant was generally a punctual employee. Dr. Gollin noted that the objective testing results indicate a similar pattern of over reliance on isolated, unsupported data. Dr. Gollin concluded that, based on his 135-minute teleconferencing interview with the appellant plus his extensive evaluation of the supplied supporting documentation, within a reasonable degree of psychiatric and psychological certainty, the appellant is suitable for employment as a Police Officer.

At the Panel meeting, the Panel found the appellant's behavior unremarkable in that he did not show any overt psychopathology and he responded to all of the Panel's questions. The appellant reported that he believed that he had not been treated well by the Kinnelon Police Department. The appellant expressed the opinion that he had been singled out because he had received a disciplinary action for the incident involving the suicidal man that had occurred four months into his employment. He explained that he was between shifts but fully dressed and was ready to respond when the call came in. Two other officers were just sitting there so he asked for guidance, afraid the individual might have attempted "death by cop." The appellant reported that the incident ended in an acceptable manner and he was even told that he had done a good job on the scene but, that moving forward, there could be no hesitation. This was the appellant's only disciplinary action.

With regard to Kinnelon's concerns about the appellant's "lack of urgency," the appellant indicated that the department acted as if he was "lazy," and compared him to another officer who was the "energizer bunny." With regard to the performance notice that he argued with a Police Sergeant from a neighboring jurisdiction, the appellant denied getting into an argument but explained that the issue was that he was unable to locate motor vehicle parts from the site where a vehicle hit a guardrail. The Panel, while concerned over the guardrail incident, noted that no substantial evidence is available regarding the reported argument. Also of concern to the Panel were the incidents involving not wearing a body camera and the patrol vehicle's rifle. By way of explanation, the appellant offered that the body cameras were new and that other officers were having problems with them as well. The appellant also reported that the lock to the patrol vehicle's rifle was frozen, and a locksmith had to be called to free it. Another incident of concern to the Panel involved the appellant, who was writing a parking citation at the time, not noticing the owner of the vehicle driving away. However, the Panel did not have enough information regarding these incidents to form an opinion regarding the appellant's lack of fitness. The appellant had claimed that the body camera and the rifle situation involved other officers as well. Moreover, the Panel noted that the appointing authority was aware of the performance issues with Kinnelon Police Department when it extended the appellant

the conditional offer of employment. Those issues in the appellant's background were not felt by the appointing authority to be substantial enough to preclude it from hiring the appellant. Nonetheless, the Panel opined that the incidents of concern could be reflective of training issues that are correctible, or that they could indicate that the appellant has attentional problems that might reach a level of rendering him not fit for the position. Thus, since the Panel had insufficient information, it recommended that the appellant submit to an independent psychological evaluation to consider these issues. The Panel suggested that obtaining the appellant's school records could be helpful.

CONCLUSION

The Civil Service Commission (Commission) has reviewed the Report and Recommendation of the Panel. It 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. However, in the present matter, the Panel was unable to render a determination as to the appellant's psychological suitability for a career service Police Officer position given the concerns it had with incidents in the appellant's employment history and whether attention issues, which could render him unfit for duty, played a role in any of these incidents. Therefore, the Commission agrees with the Panel's recommendation for the appellant to undergo an independent psychological evaluation, which shall include an assessment of the appellant's attention to detail given the Panel's concerns. As suggested by the Panel, the appellant should present his school records to the independent evaluator. Accordingly, the Commission refers the appellant for an independent psychological evaluation by a New Jersey licensed psychologist.

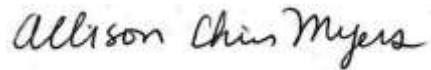
ORDER

The Commission therefore orders that A.H. be administered an independent psychological evaluation as set forth in this decision. 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 consideration of the evaluation, copies of the independent evaluator's Report and Recommendation will be sent to all parties with the opportunity to file exceptions and cross exceptions.

A.H. is to contact Dr. Robert Kanen, the Commission's independent evaluator, within 15 days of the issuance date on this determination to schedule an appointment. If A.H. does not contact Dr. Kanen within the time period noted above,

the entire matter will be referred to the Commission for a final administrative determination and the appellant's lack of pursuit will be noted.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 6TH DAY OF DECEMBER, 2023



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