



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matters of B.E., Police Officer
(S9999A and M0129D), Village of
Ridgewood

Medical Review Panel Appeals

CSC Docket Nos. 2023-105 and
2023-1430

ISSUED: September 20, 2023 (HS)

B.E., represented by Robert K. Chewning, Esq., appeals her rejection as a Police Officer candidate by the Village of Ridgewood and its request to remove her name from the eligible lists for Police Officer (S9999A and M0129D) on the basis of psychological unfitness to perform effectively the duties of the position. These matters have been consolidated herein.

These appeals were brought before the Medical Review Panel (Panel) on March 9, 2023, which rendered its Report and Recommendation on March 17, 2023. Exceptions and cross exceptions were filed on behalf of the parties.

The report by the Panel discusses all submitted evaluations. It indicates that Dr. Krista Dettle, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant. Her findings about the appellant included the following: presenting as “evasive and minimizing, as well as engaged in positive impression management during her interview with the undersigned;” initially reporting that she worked full-time as a Parking Enforcement Officer for the appointing authority since August 2017; reporting that she was advised by a representative of the appointing authority that her “girlfriend” posting a picture of her on social media with the caption of “Congrats to Ridgewood’s newest officer” was not appropriate since the title of “officer” could be misconstrued; being advised by her Field Training Officer that she should not have attended an event dressed in her police auxiliary uniform when the event was not sponsored by the town for which she worked; reporting inconsistent accounts across several evaluations of her interactions

with a former employer, with whom she had an unwanted sexual interaction while at work; having sexual interactions with a co-worker while at work at a job in addition to the previously listed incident; not reporting the unwanted sexual encounters because she did not want to “ruin anyone’s future;” having no history of arrests; volunteering as a “police explorer” and an auxiliary police officer; not being sure why she was not offered a job for which she applied with the Port Authority Police Department; trying marijuana “once or twice” in college but not liking it; denying any history of significant financial problems; providing discrepant information across several evaluations conducted when she applied for previous public safety positions; and submitting another student’s work and claiming it was her own for a college course. Based on these concerns, Dr. Dettle did not recommend the appellant for appointment.

The report also indicates that Dr. Robert Kanen, evaluator on behalf of the appellant, carried out a psychological evaluation and did not share the concerns expressed by the appointing authority’s evaluator. Dr. Kanen’s findings about the appellant included the following: having no history of mental health treatment; having no history of arrests; having no history of being terminated from employment; having no history of treatment for substance abuse; being psychologically evaluated for five previous positions and being deemed to be suitable twice and deemed not suitable thrice; not reporting a sexual assault that happened to her in high school and stating that she “utilized [her] friends and family to overcome it;” admitting that she had a sexual encounter with a co-worker in 2018 but that the encounter occurred outside of work; not reporting unwanted sexual behavior that a friend of her family committed against her because she did not want her father to know about the incident; being forced into a sexual encounter by a co-worker at a previous job, dating that employee for about a month, and then stopping all communication with that person when she left that job; and working at her current job in parking enforcement since 2017. On personality testing, the appellant scored in the category “likely to recommend for employment in a public safety/security position based on the estimated psychologist recommendation.” She scored in the category “likely to meet expectations” in terms of her ability to control conflict, in her ability to relate and work with the public, and in the overall rating by a field training officer. Dr. Kanen found that the appellant was service-oriented. In that regard, he noted that the appellant worked for the Ridgewood Police Department and knew the department members and the community. Dr. Kanen concluded that the appellant was psychologically suitable for employment as a Police Officer.

As indicated by the Panel in its report, the evaluators on behalf of the appointing authority and the appellant arrived at differing conclusions and recommendations. While Dr. Dettle raised concerns regarding the appellant’s lack of candor, questionable judgment, and inconsistency in reporting important events and issues that were noted in her background, Dr. Kanen did not share these concerns. The Panel reviewed several incidents delineated in the appellant’s background with

her. During the course of the Panel meeting, her descriptions and explanations of several unwanted sexual encounters were not consistent. She offered different explanations after the Panel requested more details about the incidents. The Panel noted its awareness of the difficulty many victims of unwanted sexual encounters have when discussing such incidents. However, the appellant's inconsistency in describing what has happened in her life appeared to be related to her only providing an accurate account when she was presented with information that contradicted her original account of an incident. The Panel noted that clear and accurate communication was an essential requirement for work as a Police Officer. The Panel believed that the appellant's communication style did not meet the minimum standards expected of a Police Officer. The Panel also had concerns about the judgment the appellant used when electing not to report criminal behavior in the past. Additionally, she submitted work that was not her own during a college course and apparently only informed the professor for the course when she realized that it was likely the professor would discover the work had been done by another student. That incident added to the concerns the Panel had about the appellant's integrity and honesty. Therefore, the Panel recommended that the appellant be removed from consideration.

In her exceptions, the appellant argues that she should be found psychologically fit for the position of Police Officer. She insists that she has remained consistent in disclosing the details associated with the sexual assaults at issue and argues that the appointing authority and the Panel improperly concluded that she made inconsistent statements regarding a 2017 sexual assault and a sexual encounter at a prior employer because of alleged statements made during a polygraph evaluation performed during a previous hiring process for a Connecticut municipal police department in 2019. The appellant states that the polygraph report amounts to hearsay and notes that requiring a polygraph examination as a condition of employment is disfavored under New Jersey law. *See N.J.S.A. 2C:40A-1*. Thus, she urges the Civil Service Commission (Commission) to deem the polygraph report unreliable with all conclusions drawn therefrom deemed improper. Moreover, she highlights that her position as a Parking Enforcement Officer requires her "to provide clear communication to the police department, the public, and the municipal court system — which she has successfully done to this day." She also notes that she was a dispatcher for another police department. As such, the appellant takes exception with the Panel's finding regarding her communication skills. As for the Panel's finding that she exhibited judgment concerns because she failed to report the sexual assaults that she suffered to the police, the appellant contends that the Panel effectively criticized how she, a victim to sexual assault, responded to these incidents. Additionally, the appellant submits that when the Panel asked her how she would respond to a sexual assault call as a Police Officer, she stated that she would respond based on her training and would not allow her past to affect her. Her character reference noted that she was "calm" and "objective." Concerning the instance of plagiarism in college, the appellant maintains the incident should not be used against

her since, among other things, she admitted to the plagiarism prior to the professor's discovery of it and went on to graduate with a Bachelor's degree and a Master's degree.

In addition, the appellant takes issue with the consolidation of her appeals. Specifically, she recounts that Dr. Dettle's psychological evaluation was performed June 30, 2022 and July 1, 2022, and the appellant was thereafter removed from the S9999A eligible list on the basis of psychological unfitness. Subsequently, the appellant was certified on November 22, 2022 from the M0129D list with her name being removed from that list on the basis of psychological unfitness prior to going through the background investigation and psychological evaluation. This agency consolidated the two list removal matters based on the "longstanding administrative practice" that deems "a psychological assessment for employment in law enforcement . . . valid for one year." The appellant argues that this practice is not supported by statute, regulation, or past case law and is contrary to how the Commission has handled other psychological disqualification appeals in the past. In this regard, the appellant highlights *In the Matter of E.E.V., County Correctional Police Officer (S9999A), Passaic County (CSC, decided August 24, 2022)*, where the Commission, while determining that Passaic County had met its burden of proof that E.E.V. was psychologically unfit, noted that "in time as [E.E.V.] demonstrates a resolution of the issues, as found by the Panel, he may prove to be a successful candidate." Thus, the appellant maintains that even if a candidate may have been found psychologically unfit in one hiring process, that does not mean that the candidate will always be found to be psychologically unfit.

In the alternative, the appellant requests that these appeals be transmitted to the Office of Administrative Law for a fact-finding hearing.

In its cross exceptions, the appointing authority, represented by Dominick Bratti, Esq., argues that the appellant has addressed only the alleged circumstances of her sexual encounters but failed to address the issues regarding her lack of candor regarding her past history. Per the appointing authority, the important facts at issue are not the specifics of the appellant's sexual encounters, but rather, the fact that she failed to disclose them until she was confronted with contradictory statements and documentation and then continued to be evasive on the topic. A related factor, in the appointing authority's view, was the poor judgment the appellant exercised in her response to these situations. It insists that this lack of candor, questionable judgment, and inconsistency in reporting was previously well documented and addressed. Indeed, the appointing authority highlights, even during questioning by the Panel, the appellant's "descriptions and explanations of several unwanted sexual encounters were not consistent." The appointing authority contends that it cannot be overemphasized that the Panel had a great deal of information available to it regarding the appellant's fitness for duty. Both the Panel's questioning of the appellant and its Report and Recommendation reveal that it was thoroughly familiar

with, and carefully considered, all of the available information. There is, the appointing authority urges, no basis for overturning the Panel's Report and Recommendation.¹

CONCLUSION

The Job Specification for the title of Police Officer is the official job description for such municipal positions within the Civil Service system. The specification lists examples of work and the knowledge, skills, and abilities necessary to perform the job. Examples include the ability to find practical ways of dealing with a problem, the ability to effectively use services and equipment, the ability to follow rules, the ability to put up with and handle abuse from a person or group, the ability to take the lead or take charge, knowledge of traffic laws and ordinances, and a willingness to take proper action in preventing potential accidents from occurring.

Police Officers are responsible for their lives, the lives of other officers, and the public. In addition, they are entrusted with lethal weapons and are in daily contact with the public. They use and maintain expensive equipment and vehicles and must be able to drive safely as they often transport suspects, witnesses, and other officers. A Police Officer performs searches of suspects and crime scenes and is responsible for recording all details associated with such searches. A Police Officer must be capable of responding effectively to a suicidal or homicidal situation or an abusive crowd. The job also involves the performance of routine tasks such as logging calls, recording information, labeling evidence, maintaining surveillance, patrolling assigned areas, performing inventories, maintaining uniforms, and cleaning weapons.

The Commission has reviewed the Job Specification for this title and the duties and abilities encompassed therein and finds legitimate concerns were raised by the appointing authority's evaluator relating to the appellant's lack of candor, questionable judgment, and inconsistency in reporting important events and issues in her background. The Commission is not persuaded by the appellant's exceptions and shares the concerns of the Panel regarding the appellant's communication style, judgment, and integrity. Even on the understanding that New Jersey law disfavors requiring a polygraph examination as a condition of employment, information relating to the appellant's polygraph examination was hardly all that was available to the Panel in rendering its conclusion. For instance, during the course of the Panel meeting itself, the appellant's descriptions and explanations of the several unwanted sexual encounters were not consistent, and she offered different explanations after the Panel requested more details about the incidents. Thus, the Commission has no reason to doubt that the Panel rendered its conclusion based on the totality of the

¹ The appointing authority also objects to "alleged additional evidence" that the appellant submits with her exceptions, which were dated after the Panel issued its Report and Recommendation and are a certification from the appellant's wife and a statement from a former supervisor.

information available to it. As for the Panel's finding that the appellant exhibited judgment concerns because she failed to report the sexual assaults that she suffered to the police, the appellant attempts to recast these concerns as unwarranted criticism of the response of a victim of sexual assault. The Commission will not go that far. The Panel's finding should be viewed in context. Specifically, the Panel was to render a conclusion and recommendation as to the appellant's psychological suitability for the Police Officer position. Viewed in the context of that task, the Panel's finding and concerns about the appellant's judgment were legitimate given that she, if appointed as a Police Officer, would be expected to enforce and promote adherence to the law. Concerning the instance of plagiarism in college, the appellant attempts to minimize the incident by noting, among other things, that she admitted to the plagiarism prior to the professor's discovery of it. However, the Panel's specific concern was that the appellant had only informed the professor when she realized that it was likely the professor would discover the work had been done by another student. This, again, was a legitimate concern.

The above troublesome findings evidence that the appellant is not psychologically suited for the position of Police Officer, as her background in that regard and her appearance before the Panel demonstrate concerns over communication, judgment, and integrity. Such qualities are necessary traits for an individual seeking a position as a Police Officer. A Police Officer is a law enforcement employee who must enforce and promote adherence to the law. Municipal Police Officers hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and the image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990). The public expects municipal Police Officers to present a personal background that exhibits respect for the law and rules. Thus, the Commission does not find a sufficient basis to reject the Panel's conclusion regarding the appellant.

Turning to the appellant's objection to the consolidation of her appeals, it is in fact common practice in both administrative proceedings and cases considered by courts in judicial review to combine cases that have the same underlying premise to be adjudicated in one decision. This serves not only to make the most efficient use of limited resources but will also have the greatest impact when resolving areas of common dispute. In these matters, the appellant's name was removed from the eligible lists at issue for the same reason — psychological unfitness to perform effectively the duties of the position of Police Officer. Moreover, based on longstanding administrative practice, a psychological assessment for employment in law enforcement is only considered valid for one year. *See In the Matter of Aleisha Cruz* (MSB, decided December 19, 2007), *aff'd on reconsideration* (MSB, decided April 9, 2008). Here, the appellant was evaluated by Dr. Dettle on behalf of the appointing authority in connection with the S9999A list and disqualified for psychological unfitness. Within one year of that evaluation, the appellant's name was certified

from the M0129D list. As such, the appointing authority properly relied on Dr. Dettle's evaluation — which even itself specified that it was to be considered valid for one year from the date of examination — to disqualify the appellant for psychological unfitness in connection with the M0129D list. *E.E.V.*, *supra*, cited by the appellant, is not to the contrary. There is nothing inherently inconsistent between considering a psychological assessment valid for one year and noting that a candidate may yet prove to be successful “in time.” *E.E.V.* cannot reasonably be read as substantively affecting the one-year practice. As such, it is appropriate that these appeals were consolidated herein as a common area requiring adjudication existed between them.

With regard to the appellant's request for a hearing, *N.J.A.C.* 4A:4-6.5(g) states in pertinent part that the Commission shall either conduct a written record review or submit psychological appeals to the Panel. Additionally, the Commission shall review the appeal, including the written report and exceptions, if any, and render a final written decision. *See N.J.A.C.* 4A:4-6.5(h). Hearings are granted only in those limited instances where the Commission determines that a material and controlling dispute of fact exists that can only be resolved through a hearing. *See N.J.A.C.* 4A:2-1.1(d). In these matters, the Commission concludes that, for the reasons explained above, no material issue of disputed fact has been presented that would require a hearing. *See Belleville v. Department of Civil Service*, 155 *N.J. Super.* 517 (App. Div. 1978). Therefore, the appellant's request is denied.

The Commission emphasizes that, prior to making its Report and Recommendation, the Panel conducts an independent review of all of the raw data presented by the parties as well as the raw data and recommendations and conclusions drawn by the various evaluators prior to rendering its own conclusions and recommendations, which are based firmly on the totality of the record presented to it and, as such, are not subjective. The Panel's observations regarding the appellant's behavioral record, employment history, responses to the various assessment tools, and appearance before the Panel are based on its expertise in the fields of psychology and psychiatry, as well as its experience in evaluating hundreds of applicants. Accordingly, the Commission cannot ratify the appellant's psychological fitness to serve as a Police Officer.

Therefore, having considered the record and the Panel's Report and Recommendation issued thereon, and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusion as contained in the Panel's Report and Recommendation and denies the appellant's appeals.


ORDER

The Commission finds that the appointing authority has met its burden of proof that B.E. is psychologically unfit to perform effectively the duties of a Police

Officer and, therefore, the Commission orders that her name be removed from the subject eligible lists.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 20TH DAY OF SEPTEMBER, 2023



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