



STATE OF NEW JERSEY

In the Matter of D.C.,
Fire Fighter (M2229D),
Hackensack

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

CSC Docket No. 2024-711

Medical Review Panel Appeal

ISSUED: September 25, 2024 (BS)

D.C., represented by Robert Chewning, Esq., appeals his rejection as a Fire Fighter candidate by Hackensack and its request to remove his name from the eligible list for Fire Fighter (M2229D) 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 February 16, 2024, which rendered its Report and Recommendation on February 22, 2024. Exceptions were filed on behalf of the appellant, and cross exceptions were filed on behalf of the appointing authority.

The report by the Panel discusses all submitted evaluations. Dr. Han Zhang Liang, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and characterized the appellant as presenting as “somewhat stoic and a poor historian,” although he was generally forthcoming during the interview. The appellant denied any history of mental health treatment or substance abuse problems. Moreover, Dr. Liang indicated that the appellant served in the U.S. Army Reserves since December 2015 and reported being on active duty from January 2017 to December 2017. Dr. Liang noted that the appellant was unemployed at the time of the interview and had previously been employed as a supermarket assistant team leader from October 2021 to August 2023 before leaving that position without having another job so he could “take time for himself.” Previously, the appellant had worked as a full-time Police Officer but resigned from that position because he “hated working with people in the aspect that [P]olice

[O]fficers have to deal with people.¹” Dr. Liang stated that a detective who had worked with the appellant while he was a Police Officer described him as lacking “communication skills with the public” and “being inattentive, lacking in officer safety, and unable to ascertain basic information during calls for service.” Likewise, a Police Lieutenant who served on the force with the appellant characterized him as someone who would “freeze up and become anxious or nervous during a stressful situation.” In addition, the appellant had a total of 11 motor vehicle summonses on his record. Based on the foregoing, Dr. Liang did not recommend the appellant for employment as a Fire Fighter.

Dr. Robert Kanen, evaluator on behalf of the appellant, carried out a psychological evaluation and noted that the appellant denied any history of mental health treatment. Dr. Kanen indicated that the appellant reported one arrest for unpaid parking tickets and also “motor vehicle problems for improper display of license plates” which occurred approximately six times. Moreover, Dr. Kanen set forth that the appellant had successfully completed the police training academy and had worked as a Police Officer from January 2021 until October 2021. However, a training officer described the appellant as being “frozen in place” when the training officer “looked to be in danger of being assaulted by a hostile individual.” The appellant resigned when he realized that law enforcement work was “not for him.” The appellant reported that he had an excellent military record but only had an “indirect exposure” to combat. Although currently unemployed, the appellant had never been terminated from a position. In Dr. Kanen’s opinion, the appellant was qualified and psychologically suitable to perform the duties of a Fire Fighter.

As set forth by the Panel, the evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. The negative recommendation found support in the appellant’s overall behavioral record and test results to support the conclusions of the appointing authority’s evaluator. Specifically, the Panel shared Dr. Liang’s concerns regarding the appellant’s ability to effectively communicate and function appropriately in stressful situations. Although the appellant responded to all of the Panel’s questions, of note was the appellant’s inability to recall the incident in which he was assessed to freeze and not respond when his training officer appeared to be in danger. Therefore, the Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Fire Fighter, indicated that the appellant was psychologically unfit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should be upheld. Accordingly, the Panel recommended that the appellant be removed from the eligible list for Fire Fighter.

¹ Agency records indicate that the appellant was appointed as a Police Officer with Hackensack, effective January 22, 2021, and resigned in good standing on October 7, 2021.

In his exceptions, the appellant asserts that the Panel failed to demonstrate by “professionally accepted methods” that the selection device was “predictive of or significantly correlated” to a specific element of work behavior. *See In the Matter of Anastasia Vey*, 124 N.J. 534 (1991) and 135 N.J. 396 (1994). Rather, the appellant contends that the Panel was overly reliant on his past performance as a Hackensack Police Officer and failed to distinguish the distinctive roles of a Police Officer and Fire Fighter and improperly treated the duties as the same. He also asserts that the Panel ignored the other relevant facts that supports his mental ability to perform the functions of a Fire Fighter. The appellant emphasizes that Dr. Kanen properly distinguished the duties of the two positions. Further, the appellant argues that the “stressful situations” and interactions that these positions have with the public are different in that, rather than dealing with hostile individuals as a Police Officer, the Fire Fighter’s duties are focused on helping people. The appellant claims that an appointment as a Fire Fighter would be a “natural next step” in his career, which has been focused on serving and protecting his community and his country. While serving in the U.S. Army Reserves, the appellant states that he spent 12 months of active duty in Kuwait and Afghanistan and received several medals and commendations. In addition, he states that he has never been terminated from a position, never been arrested or criminally charged, and has never had any physical or mental health concerns. Further, the appellant emphasizes that he successfully passed the psychological evaluation for Police Officer, administered on December 20, 2020. As a result, the appellant submits that he should be restored to the subject eligible list.

In its cross exceptions, the appointing authority, represented by Raymond R. Wiss, Esq., maintains that the Report and Recommendation of the Panel is supported by credible evidence in the record. It contends that the exceptions presented by the appellant provide no basis to restore the appellant to the Fire Fighter eligible list. The appointing authority underscores its evaluator’s report, asserting that social competence and effectively interacting with the public during stressful situations are critical job demands for a Fire Fighter and that the appellant’s record as a Police Officer is illustrative of his inability to perform effectively and decisively in the subject position. Additionally, it argues that the appellant’s “poor conscientiousness” and “large pattern of inattentiveness” further preclude him from serving as a Fire Fighter. Therefore, the appointing authority submits that the Civil Service Commission (Commission) should accept and adopt the findings and conclusions set forth in the Panel’s report.

CONCLUSION

The Job Specification for the title of Fire Fighter is the official job description for such positions within the Civil Service system. According to the specification, Fire Fighters are entrusted with the safety and maintenance of expensive equipment and vehicles and are responsible for the lives of the public and other officers with whom they work. Some of the skills and abilities required to perform the job include the

ability to work closely with people, including functioning as a team member, to exercise tact or diplomacy and display compassion, understanding and patience, the ability to understand and carry out instructions, and the ability to think clearly and apply knowledge under stressful conditions and to handle more than one task at a time. A Fire Fighter must also be able to follow procedures and perform routine and repetitive tasks and must use sound judgment and logical thinking when responding to many emergency situations. Examples include conducting step-by-step searches of buildings, placing gear in appropriate locations to expedite response time, performing preparatory operations to ensure delivery of water at a fire, adequately maintaining equipment and administering appropriate treatment to victims at the scene of a fire, *e.g.*, preventing further injury, reducing shock, restoring breathing. The ability to relay and interpret information clearly and accurately is of utmost importance to Fire Fighters as they are required to maintain radio communications with team members during rescue and firefighting operations.

The Commission has reviewed the Job Specification for this title and the duties and abilities encompassed therein and finds 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. In this regard, the Commission notes that 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. The Panel's observations regarding the appellant's behavioral 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 appellants for public safety positions.

The Commission finds that the appellant's exceptions do not persuasively dispute the findings and recommendations of the Panel. In this regard, the appellant's behavioral record establishes that he lacks the ability to effectively communicate with the public, maintain attention to safety, and function appropriately in stressful situations. The Commission does not find the appellant's exceptions to be persuasive. Although the appellant argues that administrative agencies must articulate the standards and principles that govern decisions in as much detail as possible as required by *Vey, supra*, he has failed to persuasively demonstrate why his specific past behavior in a law enforcement capacity would not be predictive of his ability to successfully function in another public safety role. In other words, although the appellant may have passed a psychological evaluation for a Police Officer position, his behavioral record as a Police Officer establishes psychological traits not conducive for a Fire Fighter position. Moreover, the Commission agrees with the appointing authority's position that interacting with the public during stressful situations are critical job demands for a Fire Fighter and that the appellant's record is illustrative of his inability to perform effectively and

decisively in such a role. With regard to the appellant's military service, the Commission notes that military experiences are more structured and narrower in scope than those experiences one might encounter in a law enforcement or public safety position, particularly one that deals with the public, and that military experience does not necessarily equate with law enforcement or public safety success. *See e.g., In the Matter of J.L.* (CSC, decided September 20, 2018). *See also In the Matter of J.E.* (CSC, decided September 1, 2021).

Therefore, having considered the record and the Panel's Report and Recommendation issued thereon and the exceptions filed on behalf of the appellant, the cross exceptions filed on behalf of the appointing authority, and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation and denies the appellant's appeal.

ORDER

The Commission finds that the appointing authority has met its burden of proof that D.C. is psychologically unfit to perform effectively the duties of a Fire Fighter 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 25TH DAY OF SEPTEMBER, 2024



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