



STATE OF NEW JERSEY

**DECISION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of J.M.,
Sheriff's Officer (C0219D),
Gloucester County

CSC Docket No. 2024-764

Medical Review Panel Appeal

ISSUED: September 25, 2024 (DASV)

J.M., represented by Stuart J. Alterman, Esq., appeals his rejection as a Sheriff's Officer candidate by Gloucester County and its request to remove his name from the eligible list for Sheriff's Officer (C0219D) 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 May 3, 2024, which rendered its Report and Recommendation on May 6, 2024. No exceptions were filed by the parties.

The report by the Panel discusses all submitted evaluations and the information obtained from the meeting. The appointing authority's evaluator, Dr. Tiffany Leone-Vespa, concluded that the appellant's approach to the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) "was overly defensive and could not permit an adequate assessment of his psychological adjustment." The MMPI-2 was administered twice to the appellant. However, the appellant's psychological evaluator, Dr. David Pilchman, found the appellant suitable for appointment as a Sheriff's Officer, noting, among other things, that the appellant did not report any "physical or psychological complaints," and that his mood was "stable." Dr. Pilchman also indicated that the appellant's simple assault charge in 2018 had been expunged.

At the Panel meeting, the appellant was questioned about the concern noted in Dr. Leone-Vespa's report that his twice-administered MMPI-2 tests yielded results indicative of an "overly defensive" approach. Additionally, the appellant was asked

about his experience during the evaluation, his simple assault charge in 2018, his alcohol use, and his driver's license and car insurance history. Based on its review of the evaluations, as well as the appellant's appearance before it, of most concern to the Panel was Dr. Leone-Vespa's report. The Panel stated that it was not unusual for a law enforcement candidate to complete a psychological test in a defensive manner, but that other tests can be administered to determine what led to the test results. The Panel noted that it was not provided with actual test data, and consequently in this matter, it was unable to determine the appellant's psychological suitability for a Sheriff's Officer position. Therefore, it recommended that the appellant undergo an independent evaluation and that the independent evaluator be provided with the test data from the evaluation conducted on behalf of the appointing authority.

It is noted that, upon receipt of the appeal, the Division of Appeals and Regulatory Affairs advised the appointing authority by letter, dated October 11, 2023, that within 20 days of receipt of the letter to "submit a complete psychological and/or psychiatric report which was the basis for the appellant's disqualification, as well as all tests, raw data, protocols, printouts, and profiles" in accordance with *N.J.A.C. 4A:4-6.5(d)*. A subsequent attempt by staff to obtain the report and tests was made on November 15, 2023, and the report was received on November 16, 2023. However, the tests were not received, and on December 18, 2023, staff specifically requested that the appointing authority submit the MMPI-2 (both tests), The Burns Depression Checklist, and the Burns Anxiety Inventory, which Dr. Leone-Vespa administered to the appellant. On January 10, 2024, the Chief Clerk for the appointing authority advised that the Sheriff's Office would reach out to Dr. Leone-Vespa's office to obtain the information. On April 12, 2024, the appointing authority indicated that the documents were in the possession of Apple Counseling, which was Dr. Leone-Vespa's office, and no further information was submitted. Thereafter, given that Dr. Leone-Vespa's report was submitted, the matter was forwarded to the Panel for its consideration. It is further noted that upon distribution of the Panel's Report and Recommendation on May 24, 2024, the appointing authority was again requested to ask its evaluator for a copy of the tests and any other data or documentation relating to the tests administered to the appellant for the independent evaluator's review. A subsequent attempt by staff was made on July 24, 2024; however, no additional information was received.

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 in psychological disqualification matters, 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 an 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 this case, the raw data, *i.e.*, the MMPI-2 (both tests), The Burns Depression Checklist, and the Burns Anxiety Inventory, was not provided to the Panel or the Commission notwithstanding attempts to obtain them. Consequently, the Panel was unable to render a determination as to the appellant's psychological suitability for the Sheriff's Officer position, noting the concern over the appellant's alleged "overly defensive" approach and his behavioral history. Therefore, upon its review, the Commission agrees with the Panel's recommendation for the appellant to undergo an independent psychological evaluation, which shall include any necessary tests and an in-depth assessment of his suitability for appointment as a Sheriff's Officer.

The Commission adds the following comment. Once the appointing authority subjects a candidate to a psychological or medical evaluation and requests the removal of the candidate's name from an eligible list based on that evaluation, it has the burden of proving that the removal was proper pursuant to *N.J.A.C. 4A:4-6.3(b)*. In this case, while the appointing authority was unable to obtain or did not request the tests from its evaluator, as the case may be, the Commission cannot find at this juncture that the appointing authority did not meet its burden of proof. The Commission cannot endorse the appellant's suitability as a Sheriff's Officer without further evaluation to address the noted concerns. Accordingly, the Commission refers the appellant for an independent psychological evaluation by a New Jersey licensed psychologist.

ORDER

The Commission therefore orders that J.M. 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 the parties with the opportunity to file exceptions and cross exceptions.

J.M. 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 J.M. 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 25TH DAY OF SEPTEMBER, 2024

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Chairperson
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