



STATE OF NEW JERSEY

In the Matter of C.A.,	:	
Police Officer (M0082D), Long Branch	:	FINAL ADMINISTRATIVE ACTION
	:	OF THE
	:	CIVIL SERVICE COMMISSION
	:	
CSC Docket No. 2024-597	:	
	:	
	:	Medical Review Panel Appeal
	:	
	:	

ISSUED: September 4, 2024 (BS)

C.A., represented by Stephen B. Hunter, Esq., appeals his rejection as a Police Officer candidate by Long Branch and its request to remove his name from the eligible list for Police Officer (M0082D) 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. Sandra Ackerman Sinclair, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and characterized the appellant as being generally cooperative during the evaluation. Dr. Sinclair noted that the appellant was currently employed as a part-time bouncer, he had previously been employed as a full-time armed security officer, and he had left a prior position at a country club without giving two weeks' notice. The appellant also served in the United States Navy from February 2015 through December 2020, being deployed every six months and receiving an honorable discharge. However, the appellant was disciplined once in the Navy for disrespecting a petty officer. The appellant also reported having "traumatic experiences" while serving in the Navy and that he and his military peers drank alcohol three days per week to help them "mellow" out. The appellant reported that he receives 90% disability compensation from the Veterans Administration (VA),

70% of which is for Post Traumatic Stress Disorder (PTSD). Dr. Sinclair reviewed the appellant's VA record, dated August 8, 2023, which confirmed the 70% disability rating for "other specified trauma and stressor related disorder with alcohol use disorder moderate (previously rated as adjustment disorder with anxiety and depressed moods and alcohol disorder)." Dr. Sinclair noted that this was increased from 30% after a new claim was submitted by the appellant on October 5, 2021.¹ The appellant's disability claim was based on "[a]nxiety, chronic sleep impairment, depressed mood, difficulty in establishing and maintaining effective work and social relationships, disturbances of motivation and mood, flattened affect, near continuous depression [and panic] affecting the ability to function independently, appropriately, and effectively, . . . and occupational and social impairment with reduced reliability and productivity." The appellant denied any history of being prescribed psychotropic medication. Based on the foregoing, Dr. Sinclair did not recommend the appellant for employment as a Police Officer.

Dr. Nancy Burleigh Gallina, evaluator on behalf of the appellant, carried out a psychological evaluation and noted that the appellant was currently studying Homeland Security at Monmouth University and that he works as a bouncer. Prior to that, he had been employed as an armed security officer. The appellant denied any history of termination but reported to Dr. Gallina that he resigned from a job at a country club following a disagreement with the manager. Similar to what he reported to the appointing authority's evaluator, Dr. Gallina noted the appellant served in the Navy from February 2015 to December 2020, was deployed every six months between August 2015 through November 2018, and received an honorable discharge. The appellant had indicated that he had a 90% military service-connected disability. Moreover, Dr. Gallina indicated that the appellant was disciplined once while serving in the Navy for disrespecting a petty officer and, as a civilian, he was arrested once for disorderly conduct, which was downgraded to a violation of a municipal noise ordinance. The appellant denied any history of alcohol dependence or abuse and described his current use of alcohol as a "social drinker." However, Dr. Gallina noted that the VA diagnosed the appellant as suffering from PTSD, anxiety disorder, and alcohol use disorder. The appellant had a "psychological consultation" in 2021 to evaluate if he was an appropriate candidate for the VA's "Mood Boost Therapy" program but never heard back from the VA about it. The appellant described his current mental health status as being "good." In Dr. Gallina's opinion, with reasonable psychological certainty, the appellant was psychologically suitable to serve as a Police Officer.

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 disorderly conduct arrest and current disability rating with the VA for mental health and substance abuse

¹ Agency records indicate that the appellant took the examination for Police Officer (M0082D) on June 30, 2022 and was notified of his passing score on November 2, 2022.

problems. During the course of the Panel meeting, these concerns were discussed with the appellant. The appellant stated that, when he was arrested for disorderly conduct, he had consumed “four drinks and one or two shots.” When police responded to the reported disturbance, the appellant and his brother told the responding officers that they would be able to “manage the situation” as the appellant was in the military and his brother was a State Trooper. With regard to his disability rating with the VA, the appellant stated that “he has some thoughts about the trauma he experienced” while serving in the military. The appellant reported that he has decreased his alcohol consumption to one to two drinks once or twice per month. When the Panel questioned him as to why he did not contact the VA to update his status, as he now believes his symptoms are reduced from 2021, he stated that he had not done so. Thus, the Panel noted that he is collecting compensation at a 70% disability rating but believes that he is not disabled to that degree. While the Panel was appreciative of his service in the Navy, it noted that it is the responsibility of the Panel to assess the appellant’s psychological suitability for employment as a Police Officer. The appellant had his disability rating reevaluated by the VA in 2021 and the results of that rating indicated that the appellant is not able to effectively meet the demands of the job he is seeking. The Panel recommended that the appellant request an updated evaluation from the VA regarding his current functioning. The Panel opined that, should the impairments noted in his most recent evaluation be determined to no longer be present, the appellant may be a suitable candidate in the future. However, at the present time, the Panel found the appellant to be psychologically unsuitable for appointment as a Police Officer.

In his exceptions, the appellant asserts that the Panel failed to consider the many letters of recommendation that he submitted that referred to his numerous positive traits such as social competence, team orientation, adaptability/flexibility, conflict management abilities, leadership, conscientiousness and dependability, impulse control/emotional regulation, stress tolerance, attention to safety, integrity and ethics, and assertiveness/persuasiveness. He also notes that the letters highlight his decision-making abilities and judgment and the absence of any signs of substance abuse and other risk-taking behavior. The appellant contends that the Panel relied almost exclusively on his VA disability rating. The appellant refers to a publication by the Equal Employment Opportunity Commission which states that “an employer may not refuse to hire a veteran based on assumptions about a veteran’s ability to do a job in light of the fact that the veteran has a disability rating” from the VA. The appellant claims that he possesses all of the requirements to serve as a Police Officer without any need for a reasonable accommodation. Further, in addition to his other abilities, the Panel failed to consider the appellant’s bilingual abilities, being fluent in both English and Spanish. In support of his appeal, the appellant submits articles on the benefits of employing bilingual Police Officers. The appellant further asserts that he had passed the appointing authority’s comprehensive background investigation. Additionally, the appellant argues that the Panel failed to identify what personality traits represented what mental disease or defect that correlated

adversely to job performance. See *In the Matter of Anastasia Vey*, 124 N.J. 534 (1991) and 135 N.J. 306 (1994). The appellant submits that no substantive basis has been provided to disqualify him and that he should be restored to the subject eligible list.

In its cross exceptions, the appointing authority, represented by Jeffrey Berezny, Esq., argues that the report and recommendation of the Panel is supported by credible evidence in the record. The appointing authority contends that the appellant's current VA disability rating, psychological traits, and history all relates adversely to the position sought. Therefore, 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 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 vehicle(s) 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 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 law enforcement 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 argument that Long Branch did not request the appellant's removal because he "passed" its background investigation in no way negates the findings of Dr. Sinclair or the Panel. The Commission concurs with the Panel's concerns which centered on issues of the appellant's disorderly conduct arrest and current disability rating from the VA for mental health and substance abuse problems. In the present matter, while the appellant self-reports that he now believes his symptoms have abated, the Commission is concerned that the appellant is still receiving a 70% disability from the VA and that he has done nothing to remove the disability rating or have it adjusted accordingly. Therefore, there is nothing in the record to mitigate concerns regarding his disability symptoms as cited by the VA which clearly would affect his performance as a Police Officer.

Moreover, the appellant argues that administrative agencies must articulate the standards and principles that govern decisions in as much detail as possible. *See Vey, supra*. The Commission notes that the Panel's Report and Recommendation to the Commission is not the final agency determination in such matters. The Commission emphasizes that it conducts an independent review of the report prior to rendering its own conclusions, which are based firmly on the totality of the record presented to it. In that regard, the VA diagnosed the appellant as suffering from mental health and substance abuse problems including PTSD, anxiety disorder, and alcohol use disorder which clearly render the appellant unsuitable to serve as a Police Officer. Additionally, the appellant submitted a new claim on October 5, 2021 based on "anxiety, chronic sleep impairment, depressed mood, difficulty in establishing and maintaining effective work and social relationships, disturbances of motivation and mood, flattened affect, near continuous depression [and panic] affecting the ability to function independently, appropriately, and effectively, . . . and occupational and social impairment with reduced reliability and productivity." All of these conditions relate adversely to functioning successfully in a law enforcement capacity.

Further, coupled with the fact that the appellant failed to get re-evaluated by the VA, the Commission has concerns surrounding the appellant's arrest for disorderly conduct. Although the Commission is mindful that the charges were later downgraded, the circumstances surrounding the arrest, including the appellant's admission of consuming "four drinks and one or two shots" prior to the arrest, which stemmed from the appellant's interference with Police Officers responding to a disturbance call, are indicative of bad judgment which is a psychological characteristic not conducive to an individual who aspires to serve as a Police Officer. Municipal Police Officers hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an 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 Police Officers to present a personal background that exhibits respect for the law and rules. Due to the circumstances surrounding the appellant's arrest and the fact that he continues to collect disability benefits for conditions which are not conducive to the position of Police Officer, while claiming that he is no longer impaired to the extent of the VA's assessment, the restoration of the appellant to the subject eligible list cannot be supported. Consequently, the Commission defers to the opinion of the experts on the Panel and finds the appellant not psychologically suitable for appointment as a Police Officer. Should the appellant wish to apply at a later date, it would be in his interest to update his disability rating with the VA.

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 C.A. is psychologically unfit to perform effectively the duties of a Police Officer 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 4TH DAY OF SEPTEMBER, 2024



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: C.A.
Stephen B. Hunter, Esq.
Charles F. Shirley, Jr.
Jeffrey Berezny, Esq.
Division of Human Resource Information Services