



STATE OF NEW JERSEY

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

In the Matter of K.H.-D.,
Parole Officer Recruit (S2403E),
Statewide

Medical Review Panel Appeal

CSC Docket No. 2025-127

ISSUED: April 30, 2025 (HS)

K.H.-D., represented by Robert K. Chewning, Esq., appeals her rejection as a Parole Officer Recruit candidate by the State Parole Board and its request to remove her name from the eligible list for Parole Officer Recruit (S2403E)¹ 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 December 13, 2024, which rendered its Report and Recommendation on December 13, 2024. Exceptions and cross exceptions were filed on behalf of the parties.

The report by the Panel discusses all submitted evaluations. It indicates that Dr. Jennifer Buhler, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and found that the appellant presented as largely uncooperative, and she was observed to be a poor historian who provided vague, evasive responses. She required frequent attempts at follow-up questioning to obtain specifics due to her response style, but these efforts were largely ineffective. Dr. Buhler indicated that the appellant was most significantly evasive and markedly dismissive when queried about her history of mental health treatment. Further, she was dressed in an overly casual manner and appeared unkempt. These observations reflected concerns about social competence, professionalism, conscientiousness, and integrity. Dr. Buhler found that the appellant's employment history was significant for at least one recent termination. Specifically, the appellant reported that she was

¹ It is noted that the subject eligible list promulgated on November 16, 2023 and expired on November 19, 2024.

terminated from her position as a waitress at a diner in May 2023 “due to the expectations.” Despite providing multiple vague responses, the appellant ultimately confirmed that she missed scheduled shifts to attend appointments for law enforcement positions. Dr. Buhler deemed the appellant’s work history significant for concerns related to dependability, teamwork, and stress tolerance.

Dr. Buhler found that the concerns related to stress tolerance and emotion regulation appeared to be longstanding. Although the appellant presented as deliberately vague and evasive about her history of mental health treatment, she reported experiencing depression and anxiety since at least the time of the birth of her first child in 2016. She reported attending a brief course of therapy about two or three years prior for a period of three to five months to address these symptoms; however, records indicated that the appellant attended therapy for 11 months (May 2021 – April 2022). She also reported that she was prescribed Xanax (a benzodiazepine) in 2016 when she was first diagnosed with postpartum depression by her primary care physician. Dr. Buhler indicated that the appellant provided a difficult-to-follow account of her history on taking the medication but described nonadherence to a consistent medication regimen, admitting that she took this medication “on and off.” She admitted that when she stopped taking the medication, her mood-related symptoms returned. When queried, the appellant stated that she most recently took this medication in 2022 after she had her second child; however, she later seemingly indicated that she has used this medication once or twice more recently from a current prescription bottle. She said that she was also prescribed Zoloft (an antidepressant) from 2022 until 2023. Further, although she did not initially disclose experiencing panic attacks, she later confirmed that she had taken herself to the emergency room an estimated 20 times for that reason. Dr. Buhler noted that on the appellant’s Biographical Summary Form, she wrote that she went to the emergency room from 2019 to 2022 on “different occasions due to my anxiety;” however, during the evaluation interview, she reported that she had gone since 2016 until as recently as 2022. Per Dr. Buhler, the recency of the appellant’s experience of panic attacks suggested that concerns related to stress tolerance remained. Additionally, the appellant greatly minimized her symptoms and treatment history and verbalized limited insight into the nature of her mental health diagnoses.

With regard to psychological testing, on the Candidate and Officer Personnel Survey-Revised, the appellant scored low in Social Adjustment, which reflects an individual who is less effective at navigating social requirements. She was significantly elevated on the Poor Life Management scale, which demonstrates difficulties in the recent past. She was moderately elevated on the Personality Problems scale, indicating an individual who may have significant difficulties navigating the emotional requirements of serving as a public safety officer. Stress, conflict, and traumatic experiences on the job are likely to be particularly difficult for this individual. On the Personality Assessment Inventory, the appellant appeared to have responded to the testing in an overly defensive and minimizing fashion.

Based on the above-described concerns, Dr. Buhler did not recommend the appellant for appointment.

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 found that the appellant was functioning within normal ranges. There were no psychopathology or personality problems that would interfere with work performance. The appellant was high average in cognitive ability; was college educated; and was community oriented. She had worked very hard to improve her English skills. Dr. Kanen noted that in 2016, the appellant was hospitalized after giving birth by C-section and having high blood pressure and had several emergency visits in 2016 for anxiety and postpartum depression. The appellant took Xanax every day and then as needed for three years. In April 2022, the appellant gave birth to her second child and experienced another episode of postpartum depression. It took the appellant about 30-60 days to recover. She took Xanax for approximately 30 days. She successfully completed psychotherapy. Dr. Kanen opined that the appellant was very responsible and highly motivated to resolve the depression and anxiety. She sought out the appropriate doctors and family support and practiced healthy living. Her symptoms were resolved. Although the appellant scored "not likely to recommend for employment in a public safety/security position" based on the estimated psychologist recommendation, Dr. Kanen indicates that this was entirely due to her history of postpartum depression, which had been resolved. The appellant functioned well in daily life and was well-suited for the position. Dr. Kanen concluded that the appellant was psychologically suitable for employment as a Parole Officer Recruit.

As indicated by the Panel in its report, the evaluators on behalf of the appointing authority and appellant arrived at differing conclusions and recommendations. While Dr. Buhler raised concerns regarding the appellant's emotion regulation, stress tolerance, and dependability, Dr. Kanen did not share these concerns. The Panel noted, among other things, that the appellant had stopped all mental health medication in 2022 and denied experiencing any panic attacks or symptoms since that time. Ultimately, the Panel found the appellant's presentation before it to be consistent with Dr. Kanen's assessment. Therefore, taking into consideration Dr. Kanen's psychological evaluation, Dr. Buhler's psychological evaluation, the appellant's presentation before the Panel, the test results and procedures and the appellant's behavioral record in light of the Job Specification for Parole Officer Recruit, the Panel found that the appellant was psychologically fit to perform effectively the duties of the position sought, and therefore, concluded that the action of the appointing authority should not be upheld. Accordingly, the Panel recommended that the appellant be restored to the subject eligible list.

In its exceptions, the appointing authority, represented by Tamara Rudow Steinberg, Esq., argues that the Panel failed to consider all relevant information

when addressing Dr. Kanen's opinion, including the attributes necessary for the position of Parole Officer Recruit. Of concern is Dr. Buhler's impression that the appellant provided an inconsistent version of her mental health history, specifically failing to disclose her experiencing panic attacks, which she later confirmed resulted in medical intervention and hospitalization. Dr. Buhler also noted that the appellant provided vague information regarding her employment history and the reasons for her termination from employment in May 2023. Notably, according to the appointing authority, Dr. Kanen failed to address these issues in his conclusion that the appellant was psychologically fit for a position in law enforcement. The appointing authority requests that the Civil Service Commission (Commission) uphold the removal of the appellant's name from the subject eligible list or, in the alternative, order that the appellant submit to an independent psychological evaluation to serve as the "tie-breaker" in deciding the appellant's psychological fitness for the subject position.

In her cross exceptions, the appellant maintains that the appointing authority has the burden of establishing the validity of the psychological examination and recommendation that she is psychologically unfit for the position of Parole Officer Recruit, and it has not done so here. She contends that within its exceptions, the appointing authority fails to present facts, or a legal basis, for why the Commission should disturb the Panel's Report and Recommendation. Further, it fails to present new facts or evidence that the Panel did not have the opportunity to review or consider. Instead, the appellant argues that the appointing authority uses its exceptions as an opportunity to reargue Dr. Buhler's findings and conclusions. However, those findings and conclusions were clearly reviewed by the Panel, and Dr. Buhler's report was in fact cited to and her conclusion included verbatim in the Report and Recommendation. Therefore, the appellant asks that the Report and Recommendation be upheld based on the Panel's review of the psychological reports at issue and opportunity to witness her presentation before it. For these same reasons, per the appellant, it would be inappropriate for her to be administered another independent psychological evaluation.

Concerning her mental health history, the appellant disputes the appointing authority's claim that Dr. Kanen provided inadequate support for his conclusion of psychological fitness. In the appellant's view, Dr. Kanen supported his conclusion that she was mentally fit for the position despite scoring "not likely to recommend for employment in a public safety/security position" based on the estimated psychologist recommendation since Dr. Kanen found that the appellant's postpartum symptoms had been resolved. Dr. Kanen supported his conclusion due to the appellant's proactive efforts to seek the necessary treatment, the passage of time since her last symptoms, and lack of any psychological problems or hospitalizations outside of the time periods related to her two pregnancies. The appellant further argues that it is "hard to understand" the basis for the allegation that she failed to disclose her experiencing panic attacks when she disclosed that she experienced panic attacks on

her Biological Summary Form and disclosed information surrounding those panic attacks when asked by Dr. Buhler. According to the appellant, the Panel appropriately considered her mental health history, the reporting thereof, the treatment that she proactively sought, and her recovery from these symptoms, and found her mentally fit. Concerning her work history, the appellant argues that the appointing authority fails to point to any job experience that the Panel did not review or incorrectly detailed in its Report and Recommendation. Moreover, outside of claiming her employment history as concerning, the appointing authority fails to identify how her employment history is evidence that she is mentally unable to perform the duties of a Parole Officer Recruit.

CONCLUSION

The Job Specification for the title of Parole Officer Recruit is the official job description for such positions within the Civil Service system. According to the specification, officers are responsible for the care, use, and security of firearms and equipment; detection, apprehension, arrest, and conviction of law offenders; participation in investigations of existing and potential employment opportunities for persons on parole; assisting in investigations and in developing parole plans for prospective parolees; learning to recognize and rapidly evaluate potentially dangerous situations involving parolees/parole violators; exercising caution and independent judgment to avoid personal injury or to prevent endangerment of the general public or serious property damage; being a liaison with law enforcement agencies, courts, employers, clergymen, school officers, welfare agencies, and civic and business organizations, and with relatives of parolees and others for the purpose of rehabilitating persons on parole; and coordinating parolees' collection efforts of court-imposed revenue obligations with other government or private agencies in the event of default.

The Commission has reviewed the Job Specification for this title and the duties and abilities encompassed therein and acknowledges the appointing authority's concerns regarding the appellant's emotion regulation, stress tolerance, and dependability, including the circumstances under which her employment with the diner concluded in 2023. However, the submissions and findings of both Drs. Buhler and Kanen, as well as the appellant's appearance before the Panel, were thoroughly reviewed by the Panel prior to it making its Report and Recommendation. The Panel's observations regarding the appellant's 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. The Panel found the appellant's presentation before it to be consistent with Dr. Kanen's assessment. Dr. Kanen, in turn, had noted, among other things, that the appellant had been very responsible and highly motivated to resolve her depression and anxiety; that her history of postpartum depression had been resolved; that she was community-oriented and functioned well in daily life; and that there were no psychopathology or personality problems that

would interfere with work performance. Thus, the Commission finds that the record, when viewed in its entirety, supports the findings of the Panel that the appellant is psychologically fit to serve as a Parole Officer Recruit. The Commission finds no compelling reason to refer the appellant for an independent psychological evaluation. Further, the Commission is mindful that any potential issues concerning the appellant's work habits can be addressed during her working test period.

Therefore, having considered the record, including the Job Specification for Parole Officer Recruit and the duties and abilities encompassed therein, and the Panel's Report and Recommendation issued thereon and the exceptions and cross exceptions filed by the parties, 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 grants the appellant's appeal.

ORDER

The Commission finds that the appointing authority has not met its burden of proof that K.H.-D. is psychologically unfit to perform effectively the duties of a Parole Officer Recruit and, therefore, the Commission orders that the eligible list for Parole Officer Recruit (S2403E), Statewide, be revived and the appellant's name be restored. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans With Disabilities Act (ADA), 42 U.S.C.A. § 12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also* the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon the successful completion of her working test period, the Commission orders that the appellant be granted a retroactive date of appointment to July 15, 2024, the date she would have been appointed if her name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

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 30TH DAY OF APRIL, 2025



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