



**STATE OF NEW JERSEY**

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

In the Matter of K.H.-D.,  
Police Officer (M2341E), Kearny

CSC Docket No. 2025-162

Medical Review Panel Appeal

**ISSUED: April 30, 2025 (HS)**

K.H.-D., represented by Robert K. Chewning, Esq., appeals her rejection as a Police Officer candidate by Kearny and its request to remove her name from the eligible list for Police Officer (M2341E)<sup>1</sup> 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. David Liang, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and found that she presented as superficially cooperative and well-mannered but defensive in her approach to responding to questions. The appellant appeared overly anxious and flustered in her presentation during the interview. Overall, there were significant concerns regarding emotion regulation, stress tolerance, and dependability. Dr. Liang reported that the appellant had a longstanding, recent, and severe mental health history. She appeared to have had longstanding issues with anxiety and panic attacks. Her panic attacks appeared to be severe as she estimated that she made 10-15 emergency room visits per year due to panic attacks and severe anxiety episodes. Dr. Liang noted that panic attacks are intense episodes of anxiety that can be highly

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

debilitating for those who experience them and are thus highly contraindicated for public safety work. The appellant had been treated with Xanax as needed from 2016-2022 and had also been prescribed Zoloft (an antidepressant) from approximately 2020 to 2023. Dr. Liang noted that Xanax is a sedative with fast-acting effects and is thus of particular concern for public safety work due to the stressful nature of the job demands and risk for dependency. Overall, Dr. Liang found that the recency, frequency, and severity of the appellant's mental health symptoms presented an undue psychological liability for the appointing authority, and there was a high risk that her symptoms would be exacerbated should she be exposed to the significant stressors of a full-time, firearm-carrying law enforcement position.

Dr. Liang continued that there was corroborating evidence of problems with functioning in the appellant's employment history. Specifically, the appellant left two of her most recent jobs under unfavorable circumstances. In 2023, she was terminated as a server from a diner for unsatisfactory work performance and attendance issues. In 2020, she left a certified medical assistant (CMA) position due to a "mutual decision." The appellant explained that she had requested to work remotely but her request was denied, subsequently forcing her to resign. The appellant also resigned as a CMA in 2016 but had actually been on extended leave since 2015. She had initially been on maternity leave, but her leave was extended due to postpartum complications, including mental health issues such as symptoms of postpartum depression. Dr. Liang found that there was a pattern of problems with functioning in positions of significantly lower stress and demand than the position she was currently being considered for. He found that the appellant had not demonstrated an ability to take on the responsibilities and stressors associated with a full-time law enforcement position.

Per Dr. Liang, psychological testing data supported the conclusions about the appellant. On the Candidate and Officer Personnel Survey-Revised, she scored low in Social Adjustment, which reflects an individual who is less effective at navigating social requirements. The appellant was also significantly elevated on the Poor Life Management scale, which reflects difficulties in the recent past. She was significantly 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. On the Personality Assessment Inventory, the appellant's profile appeared to be valid and the result of adequate candidness and cooperation with the testing process. She produced a clinical elevation on the Drug Problems scale, indicative of some problems related to substance use. However, it was likely that inattention or misunderstanding of item content contributed to this finding. The appellant's scores suggested that she exhibits more of the following constructs than the typical applicant to a similar public safety position. These individuals are likely to have an activity and energy level that is perceptibly high to most observers. They may be involved in a wide variety of activities in a somewhat disorganized manner and may experience accelerated thought processes. These individuals are not

intimidated by confrontation and tend to be verbally aggressive (*e.g.*, critical, insulting, or verbally threatening) with little provocation. They display their anger readily when it is experienced.

Based on the above-described concerns, Dr. Liang 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 indicated 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 Police Officer.

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. Liang 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. Liang'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 Police Officer, 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 Robert J. Merryman, Esq., argues that the Panel gave little consideration to the significant issues Dr. Liang raised, namely the appellant's longstanding issues with anxiety and panic attacks; her recent unfavorable employment history; and the psychological testing. The appointing authority highlights that Dr. Kanen's report indicated that the appellant fell in the category of "not likely to recommend for employment in a public safety/security position." The appointing authority proffers that Dr. Kanen chose to ignore his own test results. Instead, he completely discounted those results and concluded the results were "entirely due to her history of post-partum depression" without providing further support or explanation for such conclusion. Additionally, the appointing authority contends that the Panel ignored inconsistencies in the appellant's statements regarding her use of anti-anxiety and antidepressant medications, emphasizing that the appellant had been prescribed Sertraline (Zoloft) in 2020 or 2021 and continued taking it *daily* until 2023, the year prior to her psychological assessment by Dr. Liang. Further, the appointing authority argues that the Panel failed to give much attention to the appellant's problems of functioning in the work setting and did not connect the appellant's problematic work history and considerable treatment for anxiety to the concerns raised by both doctors regarding the duties and responsibilities of a Police Officer. 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.

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 Police Officer, 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. Liang's findings and conclusions. However, those findings and conclusions were clearly reviewed by the Panel, and Dr. Liang's report was in fact cited to and his 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 its 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. According to the appellant, the Panel appropriately considered these facts, agreed with Dr. Kanen's conclusions, and found her mentally fit for the position. The appellant also insists that she has maintained throughout the psychological interviews and at the Panel hearing that she discontinued her "as needed" use of Xanax in or around 2018 after her first pregnancy and then transitioned from the use of Xanax to Sertraline when similar symptoms arose for her second pregnancy. She maintains that her disclosure of her prescription medication use has remained consistent throughout the psychological interviews and during her presentation before the Panel. Nevertheless, in the appellant's view, the appointing authority attempts to mischaracterize the facts presented by her and confirmed by the Panel relating to her prescribed medications. However, the alleged facts presented by the appointing authority to establish her inconsistencies have not been cited to (presumably because there is no support for such claims) and therefore should not be considered.

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 Police Officer. The appellant also argues that while the appointing authority attempts to claim that stressful situations, common in police work, may trigger panic attacks, it alleges this fact without any citation to the record. Per the appellant, the only actual evidence presented in this matter is that she no longer experiences panic attacks and that prior panic attacks were limited to her postpartum symptoms – not workplace stress.

## 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 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. Liang 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 Police Officer. 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 Police Officer 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 Police Officer and, therefore, the Commission orders that the eligible list for Police Officer (M2341E), Kearny, 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 1, 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 30<sup>TH</sup> DAY OF APRIL, 2025




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