

**Matter of Griffin v City of New York**

2013 NY Slip Op 32703(U)

October 17, 2013

Supreme Court, New York County

Docket Number: 1020649/2012

Judge: Lucy Billings

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SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

PRESENT: LUCY BILLINGS  
J.S.C.  
Justice

PART 46

TRAVIS D. GRIFFIN

INDEX NO. 102069/2012

CITY OF NEW YORK, NYC DCAS, NYC CSC, and  
NYC EXAMINER UNIT

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 001

The following papers, numbered 1 to 3, were read on this petition motion to/for reverse respondents' determination

Notice of Motion/Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_ No(s). 1

Answering Affidavits — Exhibits \_\_\_\_\_ No(s). 2

Replying Affidavits \_\_\_\_\_ No(s). 3

Upon the foregoing papers, it is ordered ~~that this motion is~~ and adjudged that:

*The court denies the petition and dismisses this proceeding pursuant to the accompanying decision.*

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE  
FOR THE FOLLOWING REASON(S):

**FILED**  
OCT 30 2013  
NEW YORK  
COUNTY CLERK'S OFFICE

Dated: 10/17/13

Lucy Billings, J.S.C.  
LUCY BILLINGS  
J.S.C.

- 1. CHECK ONE: .....  CASE DISPOSED  NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: ..... MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
- 3. CHECK IF APPROPRIATE: .....  SETTLE ORDER  SUBMIT ORDER
- DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: IAS PART 46

-----X

In the Matter of the Application of  
TRAVIS D. GRIFFIN,

Index No. 102069/2012

Petitioner,

For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules

- against -

DECISION AND ORDER

CITY OF NEW YORK, NYC DCAS, NYC CSC,  
and NYC EXAMINER UNIT,

Respondents

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**FILED**

LUCY BILLINGS, J.:

OCT 30 2013

I. BACKGROUND

**NEW YORK  
COUNTY CLERK'S OFFICE**

Petitioner claims respondents' determination that he was not psychologically qualified for the position of probation officer in the New York City Department of Probation violated lawful procedure, was unsupported by a rational basis, and was therefore arbitrary. C.P.L.R. § 7803(3). Respondents' administrative record demonstrates that respondent City of New York's Department of Correction (DOC) Staff Psychologist, Joseph Stack Ph.D., administered psychological tests to petitioner and interviewed him to determine his psychological suitability as a probation officer. Dr. Stack found petitioner unqualified for employment as a probation officer due to his lack of credibility, attention, concentration, and interpersonal skills, traits sought by the City's Department of Probation for its probation officers.

## II. PSYCHOLOGICAL EVIDENCE RELIED ON

A critical basis for respondents' determination was their psychologists' assessment that petitioner lacked the interpersonal skills necessary to help the recently incarcerated persons for whom a probation officer is responsible make the transition from incarceration to productive life outside prison. In particular, the assessment found that petitioner does not pick up interpersonal situations or cues that convey a message from other persons, a necessary skill in fully understanding and relating to prospective probationer clients' difficulties.

Petitioner lacked credibility because his responses in interacting with the examiner were inconsistent and evasive. In particular, he avoided explaining why he was terminated from a prior DOC position, information obviously of interest to a prospective employer, especially when the prospective employment is in a capacity similar to the prior position. Overall, petitioner exhibited a disorganized manner, cloudy, disordered, and faulty thinking and judgment, and difficulties cooperating with and focussing on the interview and examination, requiring redirection toward the task at hand or the question asked.

## III. PROCEDURES FOLLOWED

Insofar as respondents rely on the assessment of petitioner by their psychologists, rather than his own psychologist, Robert Daley Ph.D., respondents justify that choice based on Dr. Daley's failure to compare petitioner's aptitude and skills to the prospective position's demands or to address his

psychological test results. Respondents' administrative record demonstrates that DOC's entire file regarding petitioner was provided to his psychologist, including the duties and skills required of a probation officer and the testing by respondents' psychologists to assess petitioner's fitness for the position. These skills include the ability to communicate directly and clearly with persons who have experienced or are encountering their own interpersonal difficulties, to respond to those persons, and to respond also to superior authority in a hierarchical law enforcement agency.

Petitioner maintains that respondent New York City Civil Service Commission, sued as NYC CSC, denied him the right to make an oral presentation before the Civil Service Commission (CSC) during his administrative appeal of the disqualification. 60 R.C.N.Y. § 2-02(d) provides only that CSC "may hear oral argument to afford appellant an opportunity to make an explanation and to submit facts in opposition." Under this rule, and in view of petitioner's advanced education and ability to present his positions freely and fully in writing, CSC was well within its discretion to deny petitioner oral argument.

#### IV. CONCLUSION

Respondents thus have amply supported their bases for concluding that petitioner was psychologically unfit for the civil service position of probation officer for which he applied. Respondents' determination of his psychological unsuitability followed lawful procedure and is supported by a rational basis

founded on the psychological evidence. Beck-Nichols v. Bianco, 20 N.Y.3d 540, 559 (2013); City of New York v. New York City Civ. Serv. Commn., 6 N.Y.3d 855, 858 (2006); Lantry v. State, 6 N.Y.3d 49, 58-59 (2005); Roberts v. Gavin, 96 A.D.3d 669, 671 (1st Dep't 2012). Therefore the court denies the petition and dismisses this proceeding. C.P.L.R. §§ 7803(3), 7806.

DATED: October 17, 2013

*Lucy Billings*  
\_\_\_\_\_  
LUCY BILLINGS, J.S.C.

LUCY BILLINGS  
J.S.C.

**FILED**  
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