

COURT DECISIONS ISSUED SINCE JANUARY 1, 2007 REGARDING APPEAL OF COMMISSION DECISIONS

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
1/5/07	Suffolk Superior (Judge Locke)	8/17/05	Appellant (Bypass Appeal Allowed)	Gaudette v. Town of Oxford	G-02-298	Henderson	Remanded to Commission for de novo hearing (Appellant failed to appear for remand hearing; appeal was dismissed for lack of prosecution.)	<ul style="list-style-type: none"> ▪ Commission conclusion that there was bias not supported by findings; ▪ Commission correct in ruling that negative reasons should have been given at time of bypass in this particular case. Court concerned, however, that Commission then proceeded to determine if negative reasons were supported by evidence.
2/8/07	Suffolk Superior (Judge Walker)	1/28/05	Appointing Authority (Termination Upheld)	Ly v. Lowell Police Department	D-01-1317	Henderson	Affirmed	<ul style="list-style-type: none"> ▪ Appellant's "Carney Rights" were not violated; issue of whether information was obtained by police department as part of "criminal" investigation or "internal investigation."
2/21/07	Suffolk Superior (Judge Walker)	2/16/06	Appointing Authority (Termination Upheld)	Loughlin v. City of Fitchburg	D-03-10; D-04-274	Henderson	Affirmed	<ul style="list-style-type: none"> ▪ Employee was terminated for poor performance, insubordination; rudeness and removing confidential information from files of fellow employees; ▪ On appeal to Superior Court, Appellant argued that Commission acted unlawfully by considering illegally obtained evidence (tape-recorded phone conversation); ▪ Court ruled that tape was only minimally mentioned in Commission decision and not heavily relied on in making decision; ▪ Court referenced credibility determinations made by CSC.

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3/7/07	Suffolk Superior (Judge Fahey)	4/10/04	Appellant (Bypass Appeal Allowed)	Nelson Nahim v. Boston Police Department	G-02-400	Guerin	Affirmed	<ul style="list-style-type: none"> Commission had allowed bypass appeal. Although 209A issued, it was limited in scope and the circumstances surrounding its issuance were subsequently determined to be suspect.
3/14/07	Suffolk Superior (Judge Sanders)	11/24/06	Appointing Authority (Termination Upheld)	Paul G. Chafe v. City of Chelsea	D-05-89	Guerin	Affirmed	<ul style="list-style-type: none"> Commission dismissed disciplinary appeal which was filed four years after termination, far beyond the 10-day filing requirement.
3/13/07	Suffolk Superior (Judge Cratsley)	10/3/05	Appointing Authority (Promotional Bypass Appeal Dismissed)	Palmer et al v. Department of Correction	G2-03-438	Guerin	Affirmed	<ul style="list-style-type: none"> Court affirmed Commission's decision that DOC promotions were conducted in accordance with applicable provisions of c. 31.
4/25/08	Appeals Court	<i>Superior Court Judgment Affirmed</i>						
3/26/07	Middlesex Superior (Judge Fischman)	3/11/05	Appellant (30-day suspension overturned)	Metzler v. Lowell Public Schools	D-02-860	Taylor	Affirmed	<ul style="list-style-type: none"> Commission overturned 30-day suspension issued to custodian for charges related to sexual harassment; No credible evidence to support charges; case relied heavily on credibility assessments of various witnesses; Court upheld Commission's decision without much comment.

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4/23/07	Suffolk Superior (Judge Walker)	10/20/06	Appointing Authority (Layoffs upheld)	Porio, Shea & Trachtenberg v. DOR and HRD	D-02-715; D-02-763; D-02-408	Bowman	Affirmed	<ul style="list-style-type: none"> Plight of the Provisionals In regard to layoffs, individuals promoted to provisional positions are considered to have left their permanent position; Court decision centered on whether the SJC decision in Andrews was retroactive to this case (Timberlane exceptions). Court ruled that CSC correctly determined that Andrews case was effective retroactively.
5/7/07	Suffolk Superior (Judge Cratsley)	6/29/06	Appellant and HRD	Weinburgh v. Haverhill and HRD		Bowman	Reversed	<ul style="list-style-type: none"> Court ruled that Commission (and HRD) were wrong to determine that an individual “shall have been employed” in the next lower position in order to sit for promotional exam, ruling that a retroactive seniority date, previously ordered by the Commission, was sufficient to allow the Appellant to sit for the exam.
9/4/08	Appeals Court	<i>Affirmed the Judgment of the Superior Court</i>						
12/7/08	SJC	<i>Denied request for Further Appellate Review</i>						
5/22/07	Suffolk Superior (Judge MacDonald)	4/25/06	Appointing Authority (Termination Upheld)	Dapkas v. Department of Correction	D-02-793	Marquis	Affirmed	<ul style="list-style-type: none"> Court affirmed CSC Decision in which it determined DOC had reasonable justification for terminating an employee with a long disciplinary history for falsifying forms regarding an alleged on-duty injury not disturbing the Commission’s credibility assessments, which were central to the decision.
4/14/09	Appeals Court	<i>Superior Court Judgment Affirmed</i>						

2/2/16; cases do not include default orders that resulted from failure to appear or failure to prosecute appeal.

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6/7/07	Appeals Court	11/5/04	Appointing Authority (Termination Upheld)	Fierimonte v. Lowell Public Schools	D-03-407	Henderson	Affirmed	<ul style="list-style-type: none"> Appeals Court ruled that the overwhelming evidence of the Appellant's poor work performance was more than ample to support the Commission's decision.
6/21/07	Appeals Court	10/9/03	Appointing Authority (Termination Upheld)	Pearson v. Town of Whitman	D-01-1564	Tierney	Affirmed	<ul style="list-style-type: none"> Appeals Court ruled that Commission was correct in determining that there was substantial evidence justifying termination
6/25/07	Plymouth Superior Court (Judge Powers)	4/20/06	Appointing Authority / HRD	Gillis v. City of Boston and HRD	G-02-587	Taylor	Affirmed	<ul style="list-style-type: none"> Commission's decision was not arbitrary or capricious when it determined that Appellant was not eligible for preference authorized by G.L. c.31, s. 26.
7/6/07	Plymouth Superior Court (Judge McLaughlin)	8/16/05	Appointing Authority (5-day suspension)	Lapworth v. Town of Carver	D-02-417	Guerin	Affirmed	<ul style="list-style-type: none"> Commission possessed substantial evidence to support its conclusions regarding the Appellant's misconduct.
7/12/07	Suffolk Superior Court (Judge Troy)	2/16/06	Appellant (termination overturned)	Mullen and McGuinness v. DOC	D-05-53 & D-05-54	Henderson	Vacated / Remanded	<ul style="list-style-type: none"> Commission decision not supported by substantial evidence; was arbitrary and capricious and exceeded Commission's authority.
8/22/07	Bristol Superior Court (Judge Moses)	3/23/06	Appointing Authority (termination upheld)	Markland v. City of Fall River	D-02-882	Guerin	Affirmed	<ul style="list-style-type: none"> Findings of Commission supported by substantial evidence and were not arbitrary or capricious.

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9/20/07	Suffolk Superior Court (Judge Hogan)	1/10/06	Appointing Authority (upheld decision to bypass)	Anthony Gaul v. City of Quincy	G-02-673	Taylor	Affirmed	<ul style="list-style-type: none"> Appellant was bypassed for reasons related to driving record; 209A; incomplete application; and being a smoker. Commissioner's decision was "legally sound and was not arbitrary, capricious or an abuse of discretion".
10/30/07	Bristol Superior Court (Judge Kane)	7/7/05	Appointing Authority (upheld denial of request for reclassification)	Nancy Fournier v. Department of Revenue	C-02-558	DALA	Affirmed	<ul style="list-style-type: none"> Substantial evidence for the magistrate to find that Fournier did not perform the duties of the position being sought more than 50% of the time.
10/30/07	Bristol Superior Court (Judge Kane)	7/7/05	Appointing Authority (upheld denial of request for reclassification)	Theresa Hyde v. Department of Revenue	C-02-334	DALA	Remanded	<ul style="list-style-type: none"> Magistrate erred by relying solely on job duties established by DOR and HRD <u>after</u> the Appellant's request for reclassification was required. Case must be re-heard and decided based upon job duties in place at time of appeal.
10/30/07	Plymouth Superior Court (Judge Chin)	6/15/06	Appointing Authority (upheld one-day suspension)	Raymond Orr v. Town of Carver	D-02-2	Bowman	Affirmed	<ul style="list-style-type: none"> Commission did not abuse its discretion when it found that Orr's posting of an offensive cartoon was not activity protected under G.L. c. 150e; Commission did not abuse its discretion by assigning the case to another Commissioner to write decision after a former Commissioner left the Commission; Decision supported by the evidence and not arbitrary or capricious.

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11/26/07	Suffolk Superior Court (Judge Cratsley)	1/12/07	Appointing Authority and HRD (ruled there was no bypass)	James Verderico v. Boston Police Department	G-02-213	Bowman	Affirmed	<ul style="list-style-type: none"> ▪ On remand, the Commission was directed to determine if the Appellant would still have been “not reachable” on civil service list based on end of consent decree in City; ▪ Commission concurred with HRD that Appellant would not have been reachable and hence, there was no bypass; ▪ Court concurred.
12/18/07	Suffolk Superior Court (Judge Brassard)	10/16/06 & 3/15/07	Appointing Authority and HRD (Granted C.S. Permanence to provisional employees and upheld transfer)	BPPA v. City of Boston and HRD	G-06-113; G-07-33; I-07-34	Taylor / Guerin / Bowman / Ittleman	Affirmed	<ul style="list-style-type: none"> ▪ On this consolidated appeal, the Court upheld all three Commission decisions related to the merger of the Boston Municipal Police Department with the Boston Police Department; ▪ Commission correctly determined that union in this case did not have standing; ▪ Commission has “significant discretion” in determining what response and to what extent, if at all an investigation under Section 2A is appropriate; ▪ The exercise of authority under Chapter 310 is “largely committed, if not entirely committed, to the informed discretion of the Civil Service Commission”.

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1/18/2008	Bristol Superior (Judge Gary Nickerson)	5/18/06	Appointing Authority (Decision not to grant reclassification affirmed)	Daniel Burns v. Department of Revenue	C-03-183	DALA	Affirmed	<ul style="list-style-type: none"> Serving as a “back-up supervisor” did not meet the requirement of the higher classification which specified that the incumbent supervises 1-5 employees; Magistrate’s decision was not arbitrary and was based on substantial evidence.
1/31/08	Appeals Court	1/3/05	Appointing Authority (Decision not to grant reclassification affirmed)	Anne Hartnett v. Department of Revenue	C-03-184	DALA	Affirmed	<ul style="list-style-type: none"> “Assisting” superiors with certain higher level duties does not mean that the employee had the “authority” to perform the duty.
1/31/08	Appeals Court	1/3/05	Appointing Authority (reclassification denial affirmed)	Susan Cote v. Department of Revenue	C-03-217	DALA	Affirmed	<ul style="list-style-type: none">
2/4/08	Hampden Superior Court (Judge Carhart)	2/16/06	Appellant (Overturning Termination)	Jason Brouillard v. Holyoke Police Department	D-03-130	Henderson	(Affirmed by Superior Court) Vacated by Appeals Court (see below)	<ul style="list-style-type: none"> Involves issue of probationary employee becoming tenured at end of probationary period absent written notice by the Appointing Authority; Appeals court vacated Commission judgment ruling that Appellant was a probationary employee and Commission had no jurisdiction to hear appeal.
8/6/09	Appeals Court	<i>Superior Court decision overturned: Appeals Court vacated Commission decision ruling that Appellant was a probationary employee and the Commission had no jurisdiction to hear appeal.</i>						
2/6/08	Suffolk Superior Court (Judge Cratsley)	9/8/06	Appointing Authority (Decision not to grant reclassification affirmed)	Arvanitis & Jacobs v. DOC	C-02-645 & C-02-646	Taylor	Affirmed	<ul style="list-style-type: none"> Commission re-asserted that it does not have jurisdiction over challenges to a <i>reallocation</i> of positions resulting from collecting bargaining agreement
3/6/09	Appeals Court / SJC	<i>Superior Court Judgment Affirmed: “The judge properly deferred to the commission’s reasonable interpretation of its statutory authority.” SJC denied request for further appellate review on 9/10/09.</i>						

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3/3/08	Suffolk Superior Court (Judge Hopkins)	7/27/06	HRD	Shea v. HRD	G1-03-219	Bowman	Affirmed	<ul style="list-style-type: none"> G.L. c. 31, § 40 does not require HRD to place an employee's name on every employment list for which the employee is remotely qualified. Rather, they are only required to place the employee's name on the list for the permanent civil service position from which the employee was laid off.
3/12/08	Suffolk Superior Court (Judge Cosgrove)	2/9/07	Appointing Authority (upheld termination)	McCoy v. Town of Wayland	D-05-171	Guerin	Affirmed	<ul style="list-style-type: none"> Court found that: "while progressive discipline is certainly a hallowed precept of labor law, the court is not persuaded that it is necessarily an indispensable prerequisite for dismissal; particularly, where, as here, the violations are serious." The Appellant's undisputed lying and falsification of documents, considered in light of his length of service and prior record as a police officer, sufficed to support this discharge.
3/17/08	Hampden Superior Court (Judge Carhart)	5/17/07	Appellant (Decision to bypass not justified)	Randolph & Shewchuk v. City of Springfield	G-02-215 & G-02-801	Guerin	Affirmed	<ul style="list-style-type: none"> Commission's findings that promotions were marked by improper political and community pressure were not arbitrary or capricious.
3/20/08	Suffolk Superior Court (Judge Brassard)	10/27/06	Appointing Authority (Suspensions upheld)	Ameral & Kiely v. Somerville Police Department	D-03-292 & D-03-289	Bowman	Affirmed	<ul style="list-style-type: none"> No accompanying memorandum from court; Commission decision concluded that the Appellants were untruthful thus justifying their suspensions.

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3/31/08	Suffolk Superior (Judge Macdonald)	5/4/06	Appellant (in part) Suspension reduced from 13 months to 8 months	Reilly v. Department of State Police	D-05-382	Marquis Bowman	Affirmed	<ul style="list-style-type: none"> The Commission had the Authority to review the Colonel's disciplinary action in general; (G.L. c. 22C, § 13) Modification justified given reasons articulated by Commission in its decision.
4/29/08	Suffolk Superior (Judge Cratsley)	11/30/06	Appointing Authority (upholding suspension and demotion)	Robert Downer v. Town of Burlington	D-03-188	Bowman	Affirmed	<ul style="list-style-type: none"> Case involved alleged racial remarks made by Appellant; Court ruled that facts as found by the hearing officer as well as the credibility determinations made by him provide substantial evidence supporting the Commission's decision.
6/3/08	Middlesex Superior Court (Judge Zobel)	5/26/05	Appointing Authority (upholding termination)	Gregory Ratta v. Town of Watertown	D-02-85	Guerin	Affirmed	<ul style="list-style-type: none"> Court ruled that: "Absent a showing of motivation akin to selective prosecution – of which the record is bare – Plaintiff cannot, by pointing to other, retained employees, avoid the Town's well-grounded decision to terminate him.
10/29/09	Appeals Court	<i>Superior Court Decision Affirmed by Appeals Court</i>						

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6/27/08	Essex Superior Court (Judge Murtagh)	3/23/07	Appointing Authority (upholding termination)	Paul Murphy v. Salem Police Department	D-03-405	Bowman	Affirmed	<ul style="list-style-type: none"> ▪ Court ruled that decision (to uphold termination) was based on “a rational explanation of the evidence presented in three days of hearings and found in the Commissioner’s findings of fact.”
6/30/08	Suffolk Superior Court (Judge Lauriat)	11/24/06	Appellant (psychological bypass not justified)	Kerri Cawley v. Boston Police Department	G1-06-95	Bowman	Affirmed	<ul style="list-style-type: none"> ▪ The Commission “has not gone so far as to conclude that [the Appellant] is psychologically fit to become a police officer. Instead, the Commission has concluded that [the Appellant] has been deprived of an opportunity to participate in a hiring process that is free from personal bias. This is well within the authority and discretion of the Commission.”
6/30/08	Suffolk Superior Court (Judge Quinlan)	4/20/07	Appointing Authority (upholding 1-day suspension)	Ronald Fries v. Town of Norwell	D-04-529	DALA	Affirmed	<ul style="list-style-type: none"> ▪ The Commission’s decision “was based upon substantial evidence. There was a directive. The plaintiff was aware of the directive. The plaintiff violated that directive without justification or cause...The Commission’s decision was not [arbitrary].”
7/2/08	Suffolk Superior Court (Judge Holtz)	4/5/07	Appointing Authority (upholding promotional bypass for sergeant)	Mark Zielinski v. City of Everett	G2-04-133	Guerin	Affirmed	<ul style="list-style-type: none"> ▪ No evidence of political considerations in bypass decision; ▪ Decision by Commission not arbitrary or capricious.

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7/16/08	Bristol Superior Court (Judge Moses)	3/6/07	Appointing Authority (upholding original bypass)	Frederick T. Preece, Jr. v. Department of Correction	G1-05-5	DALA	Affirmed	<ul style="list-style-type: none"> ▪ G.L. c. 276, s. 100C did not preclude DOC from considering Appellant's CORI as, in light of <u>Globe Newspaper Co. V. Pokaski</u>, the Appellant's records were not sealed. In <u>Globe</u>, First Circuit concluded that the first paragraph of this statute, is unconstitutional. Thus, the Appellant's records were not automatically sealed after the Appellant was found not guilty of murder. ▪ In re: admissibility of CORI report: Under G.L. c. 30A, agencies are not required to follow the rules of evidence observed by the courts. Evidence may be admitted and given probative effect if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. ▪ While Appellant was acquitted of the charges in question, the Commonwealth was held to a higher standard of proving its case beyond a reasonable doubt as compared with the standard of preponderance of the evidence that typically applies to a civil case.

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7/17/08	Suffolk Superior Court (Judge Connolly)	6/15/06	Appointing Authority (upheld layoff for lack of funds)	John Oleski v. Department of Mental Health	D-5121	Bowman	Affirmed	<ul style="list-style-type: none"> The Appointing Authority exercised its judgment prior to any crisis existing regarding funding; Its action were based on sound judgment at the time; To require the Appointing Authority to be a Monday morning quarterback makes no sense at all.
<i>1/6/10: Oleski Superior Court Judgment Affirmed by Appeals Court for "substantially the reasons detailed ... in the Superior Court Decision</i>								
7/24/08	Suffolk Superior Court (Judge Cratsley)	5/18/07	Appointing Authority (Dismissal of appeal based on jurisdiction issues)	Rodrigues and Monteiro v. City of Brockton	G1-04-4; G1-04-5; G1-05-212; G1-05-213	Guerin	Affirmed	<ul style="list-style-type: none"> Commission correctly ruled that there was no actual harm to Appellants whose names were not included on civil service list because their scores were too low, as minority candidates, to be included on list.
6/29/10	<i>Affirmed by Appeals Court on 6/29/10 for same reasons cited by Superior Court)</i>							
7/25/08	Suffolk Superior Court (Judge Quinlan)	7/19/07	Appellant (overturned loss of 20 days of accrued vacation)	Rosemarie Hicks v. Department of State Police	D-02-795	DALA	Affirmed	<ul style="list-style-type: none"> Commission does have jurisdiction to hear appeal where the discipline imposed was the loss of accrued vacation time; Since Magistrate reached different conclusion than State Police, <u>Falmouth</u> case does not apply in regard to not being able to modify discipline imposed.
7/25/08	Middlesex Superior Court (Judge Kottmyer)	8/2/07	Appointing Authority (upheld termination)	Scott Nadile v. City of Somerville	D1-07-69	Bowman	Affirmed	<ul style="list-style-type: none"> Commission correct in determining no disparate treatment (treating verbal threats and physical acts of violence differently is neither arbitrary unreasonab

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8/13/08	Suffolk Superior Court (Judge Giles)	9/7/06	Appointing Authority (upheld 1-day suspension)	William Dwan v. Boston Police Department	D-02-869	Bowman	Affirmed	<ul style="list-style-type: none"> Commission decision supported by substantial evidence; no error of law; was not arbitrary or capricious.
8/26/08	Suffolk Superior Court (Judge Hines)	5/4/07	Appointing Authority (upholding termination)	Gregory Tanger v. Town of Weymouth	D-05-203	Guerin	Affirmed	<ul style="list-style-type: none"> Commission decision is “amply supported by substantial evidence in the administrative record”; Decision was based on a “rational explanation of the evidence”.
9/11/08	Suffolk Superior Court (Judge Lauriat)	8/14/06	Appointing Authority (upholding layoffs)	Raymond et al v. Town of Athol	D-04-95-98	Goldblatt	Reversed	<ul style="list-style-type: none"> Commission decision failed to consider the effect of the Fire Chief’s improper motivations on the budget process; Fire Chief deprived the Board of Selectmen, Finance Committee and Town Meeting of the ability to make a good faith, non arbitrary determination that its revenues would be insufficient to pay the employees’ salaries.
10/29/08	Suffolk Superior Court (Judge Lauriat)	6/5/06	Appointing Authority (upholding termination)	Chin v. City of Boston	D-02-902	Guerin	Affirmed	<ul style="list-style-type: none"> There was substantial evidence that the Appellant was guilty of misconduct ; Further, Appellant can not broaden the scope of her argument beyond what was presented to the Commission.

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10/27/08	Suffolk Superior Court (Judge Henry)	3/28/07	Appointing Authority (reinstatement rights issue)	27 Former Boston Municipal Police Officers v. City of Boston	D1-07-05 – D1-07-31	Bowman	Affirmed	<ul style="list-style-type: none"> The Commission did not commit any error of law in interpreting and applying G.L. c. 31, s. 40.
<i>4/6/11: Remanded to Commission by Appeals Court; Commission misinterpreted language of Section 40.</i>								
11/20/08	Suffolk Superior Court (Judge Connolly)	8/27/07	Appointing Authority (termination upheld)	Robert Grinham v. Town of Easton	D-05-293	DALA	Affirmed	<ul style="list-style-type: none"> The evidence is “literally overwhelming” in support of the findings and decision of the Civil Service Commission...to dismiss Grinham from his position
<i>6/4/10: Affirmed by Appeals Court: “Magistrate’s decision was well-founded by the facts.”</i>								
12/8/08	Suffolk Superior Court (Judge Hines)	8/27/07	Appointing Authority (no jurisdiction to hear appeal related to Boston Cadet Program)	Sean Finn v. Boston Police Department	G1-05-441	Marquis	Affirmed	<ul style="list-style-type: none"> The appointment of (Boston Police) cadets as new police officers, like the appointment of new cadets, is not subject to the civil service law or rules, and a cadet may not seek Commission review regarding the denial or withdrawal of his appointment.
12/11/08	Suffolk Superior Court (Judge Henry)	11/14/06	Appointing Authority (provisional promotion upheld)	Joan Rainville v. Mass Rehab Commission	G2-06-11	Marquis	Affirmed	<ul style="list-style-type: none"> The Appointing Authority acted in accordance with c. 31 when it made a provisional promotion.
12/29/08	Suffolk Superior Court (Judge Cratsley)	6/14/07	Appointing Authority (5-day suspension upheld)	Aaaron Zachary v. Department of Correction	D-07-52	Marquis	Affirmed	<ul style="list-style-type: none"> Since the Appellant admitted the incident in question took place, there was no question of material fact and no full hearing before Commission was necessary, even where the Appellant argued that he could show at full hearing that he was following procedure.

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12/31/08	Suffolk Superior Court	6/28/07	Appellant (termination reversed)	Lamont Davis v. City of Newton	D-06-256	Bowman	Affirmed	<ul style="list-style-type: none"> There has been no showing that the Commission's decision was arbitrary and capricious or based on an error of law.
1/16/09	Essex Superior Court (Judge Feeley)	7/26/07	Appointing Authority (bypass appeal dismissed due to similar arbitration appeal)	Dennis Carmody & James McDonald v. City of Lynn	G2-07-65 & G2-07-66	Marquis	Remanded	<ul style="list-style-type: none"> Although both the arbitration and the Commission appeals concern the promotional appointment of the City, each raise and address different issues. Hence, the Court overturned the Commission's decision to dismiss the Appellant's appeal and reinstated the Appellant's appeal for the Commission to conduct a bypass hearing.
1/16/09	Suffolk Superior Court (Judge Lauriat)	11/1/07	Appointing Authority (bypass appeal dismissed – no bypass)	Scott Petersen v. Department of Correction	G2-06-258	Guerin	Affirmed	<ul style="list-style-type: none"> DOC used time in grade as opposed civil service seniority date when choosing from among tied candidates on civil service list; CSC dismissed appeal as a tie is not a bypass Court affirmed CSC decision and ruled that is was not unreasonable for DOC to use time in grade as opposed to civil service seniority date to break tie.
2/19/09	Suffolk Superior Court (Judge Rufo)	5/4/07	Appointing Authority (termination upheld)	Dorian Lapworth v. Town of Carver	D-03-341	Guerin	Affirmed	<ul style="list-style-type: none"> A reasonable mind could look at the evidence and come to the same conclusion as the Commission;

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2/19/09	Appeals Court	1/10/06	Appointing Authority (upholding bypass decision)	Anthony Gaul v. City of Quincy	G-02-673	Taylor	Affirmed	<ul style="list-style-type: none"> The evidence that Gaul smoked, which was supported in the record, alone justified the City's decision (to bypass the applicant)
3/12/09	Middlesex Superior Court (Judge Haggerty)	1/16/01	1 Termination Upheld; 2 suspensions modified; Appellants Appealed to Court	Jose Rivera, John Leary and David Pender v. Lowell Police Department	D-6265, 6274, 6266	Tierney	Affirmed	<ul style="list-style-type: none"> The Appellants' status as police officers should be taken into consideration when assessing the discipline imposed, even if the conduct occurred off-duty; Dishonesty and failure to disclose material facts during the course of an official investigation is a sufficient basis for suspending an officer; Although there may have been past instances where other officers received more lenient sanctions for similar misconduct, the Commission is not charged with a duty to fine-tune employees' suspensions to ensure perfect uniformity. The City Manager did not need to recuse himself from the disciplinary hearing when he was accused of having predetermined conclusions; The fact that the plaintiffs were denied legal or union representation during their interviews with Internal Affairs... does not mean that the Commission's decision was in violation of constitutional provisions for failure to reinstate the officers. The Appellants were afforded notice, a hearing, an opportunity to respond and a de novo review before the Commission, in full satisfaction of their due process rights.

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3/9/09	Suffolk Superior Court (Judge Hines)	10/11/07	Appointing Authority (10-day suspension upheld)	Tyrone Smith v. Boston Police Department	D-02-192	Guerin	Affirmed	<ul style="list-style-type: none"> ▪ The Commission's decision with regard to the acts of disrespect is supported by substantial evidence; ▪ The Commission properly found that the Appellant instigated a verbal and physical confrontation;
4/15/09	Suffolk Superior Court (Judge Henry)	3/13/09	HRD (upheld decision to band police promotional socres)	Pratt et al v. HRD		Bowman (for the majority)	Other	<ul style="list-style-type: none"> ▪ Court enjoined HRD from issuing eligibility lists for promotions of police officers in score bands rather than in the manner in which such score[s] have been reported up to the time of this change; ▪ Banding is a "significant alteration in the promotion process which has been established by statute and by rules of HRD"
4/21/09	Suffolk Superior court (Judge MacDonald)	9/27/07	Appointing Authority (majority upheld 1-year suspension)	Roy Frederick v. Boston Police Department	D-06-235	Bowman (for the majority)	Affirmed	<ul style="list-style-type: none"> ▪ Decision based on substantial evidence and there was no error of law.
5/27/09	Plymouth Superior Court (Judge Rufo)	2/14/08	Appointing Authority (upholding 90-day suspension)	Cully Rossi v. Duxbury Police Department	D-05-189	Guerin	Affirmed	<ul style="list-style-type: none"> ▪ Haven chosen a summary decision, the Appellant can not now challenge the procedure used by the Commission or the evidence relied on in making their decision; ▪

Affirmed by Appeals Court on 5/18/10

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
6/19/09	Suffolk Superior Court (Kenton-Walker)	8/14/08	Appointing Authority (upholding 1-year suspension)	Joseph Schiavone v. City of Medford	D-05-178	Heard by DALA; decision affirmed by 4 members of Commission for different reasons	Remanded	<ul style="list-style-type: none"> Since DALA magistrate had not based her decision on prior discipline, it was an error of law for the Commission to then use that prior discipline as a basis for affirming the Appointing Authority's decision.
10/9/11	Suffolk Superior Court (Judge Hines)	11/9/09 (on remand)				Bowman	Affirmed (on remand)	<ul style="list-style-type: none"> A nexus regarding off-duty conduct can be established if the off-duty conduct constitutes a violation of the appointing authority's rules.
3/12/13	Appeals Court (Justices Fecteau, Hanlon & Sullivan)	<i>Schiavone: Appeals Court affirmed Superior Court decision upholding Commission decision</i>						
7/21/09	Suffolk Superior Court (Cratsley)	8/12/08	Appointing Authority (upholding original bypass decision)	Timothy MacMillan v. Town of Plymouth	G2-05-245	Bowman (for majority)	Affirmed	<ul style="list-style-type: none"> Commission's decision to affirm the Appointing Authority's decision to bypass was based on substantial evidence.
7/24/09	Essex Superior Court (Lu)	8/12/08	Appellant (overturning Appointing Authority's decision to bypass)	Sean Bell v. Beverly Department	G1-07-200	Taylor	Vacated	<ul style="list-style-type: none"> Commission erred by substituting its judgment for that of the Appointing Authority.
<i>10/28/10: Bell: Appeals Court affirmed Superior Court's reversal of Commission decision.</i>								
6/26/09	Suffolk Superior Court (McIntyre)	9/5/08	Appointing Authority (upholding promotional bypass)	Lance Budka v. Department of Correction	G2-07-41	Taylor	Affirmed	<ul style="list-style-type: none"> The decision of the Commission was not based upon an error of law and was supported by substantial evidence.
6/29/09	Plymouth Superior Court (Creedon)	7/3/08	Appointing Authority (upholding original bypass)	David Langill v. Town of Hingham	G1-06-283	Guerin	Affirmed	<ul style="list-style-type: none"> Despite the Appellant's strong academic and professional record, the Commission's decision upholding the bypass was proper. The Town followed the proper procedures

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8/6/09	Suffolk Superior Court (Judge Ball)	9/27/07	Appointing Authority (not required to make provisional employee permanent)	Lawrence Hester v. City of Lawrence	C-05-266	DALA	Affirmed	<ul style="list-style-type: none"> Provisional employee not entitled to permanency solely because there has not been a civil service examination for the position in question for many years.
11/16/10	Appeals Court (Justices Duffly, Berry and Fecteau).	<i>Hester v. City of Lawrence: Appeals Court upheld Superior Court Decision affirming Commission Decision. Relief Under Chapter 310 is "purely discretionary"</i>						
8/19/09	SJC (Justice Ireland)	4/2/09	Appointing Authority (no bypass occurred; Appellant's appeal was dismissed)	Gary Smyth v. City of Quincy	G2-08-295	Bowman	Decision Stands; SJC denied Appellant's request to have case remanded to Commission.	<ul style="list-style-type: none"> SJC accepted reasons of HRD and denied Appellant's request to have case remanded to Commission. Case involved question of whether a bypass actually occurred regarding a Fire Chief vacancy in the City of Quincy.
8/21/09	Suffolk Superior Court (Judge Muse)	7/10/08	Appellant	Justiniano Plaza v. Boston Police Department	G1-07-101	Stein, Henderson and Taylor	Vacated / Nullified	<ul style="list-style-type: none"> Court accepted reasons of Boston Police Department and vacated / nullified Commission's decision overturning the Department's decision to bypass the Appellant
8/28/09	Suffolk Superior Court (Judge Kaplan)	7/19/07	Appointing Authority (appeal dismissed as untimely)	Kevin McKenna v. Boston Housing Authority	D-05-416	Guerin	Affirmed	<ul style="list-style-type: none"> Court concurred that appeal was not timely filed.
8/28/09	Worcester Superior Court (Judge Curran)	8/7/08	Appellant (bypass appeal allowed)	Jeremy LaFlamme v. Town of Shrewsbury	G1-07-249	Henderson	Reversed	<ul style="list-style-type: none"> The Commission "utterly ignored the legal standard of actual physical residence and instead, engaged in a result-oriented decision." The Commission's decision, in attempting to gloss over both the facts and the law to reach a different conclusion, was erroneous as a matter of law."

2/2/16; cases do not include default orders that resulted from failure to appear or failure to prosecute appeal.

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
9/17/09	Plymouth Superior Court (Judge Locke)	11/29/07	Appointing Authority (upholding termination)	Joel Weinrebe v. Department of Correction	D1-06-347	Bowman	Affirmed	<ul style="list-style-type: none"> “Read as a whole, the finding of the hearing officer, and the conclusion that they support a decision to terminate employment, is based on substantial evidence and does not involve any legal error.”
9/18/09	Middlesex Superior Court (Judge Curran)	8/21/08	Appellant (overturning bypass)	Matthew Edson v. Town of Reading	G2-05-195	Henderson	Vacated	<ul style="list-style-type: none"> There is no evidence in the record, acceptable to a reasonable person, that adequately supports the Commission’s findings that the interview process was impermissibly subjective. The Commission cannot substitute its judgment about a valid exercise of discretion based on merit or policy
<i>(11/4/10) Edson v. Town of Reading: Appeals Court upheld Superior Court decision vacating the Commission’s decision</i>								
9/18/09	Middlesex Superior Court (Judge Curran)	8/7/08	Appointing Authority (ruling that a tie is not a bypass)	Matthew Edson v. Town of Reading	G2-07-257	Bowman (for majority)	Affirmed	<ul style="list-style-type: none"> It is reasonable for the Commission to interpret the statutory language “any qualified person other than the qualified person whose name appears highest” as meaning a candidate lower on the list, not one with the same score.
9/29/09	Suffolk Superior Court (Judge Ball)	3/27/08	Appointing Authority (upholding termination)	Jovan Lacet v. Boston Police Department	D-05-4	Guerin	Affirmed	<ul style="list-style-type: none"> The Appellant’s immunized testimony can be used against him in a proceeding before the Civil Service Commission, an “administrative tribunal”.

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
10/23/09	Suffolk Superior Court (Judge Chiles)	7/31/08	Appellant (Overturning decision of BPD to bypass)	Juan Rodrigues v. Boston Police Department	G1-07-121	Taylor	Vacated	<ul style="list-style-type: none"> “The Commission’s validation of Rodrigues’ <i>excuses</i> does not change the <i>facts</i>: he was disciplined six times by two different entities and then lied about his disciplinary history on his application. In sum, there was reasonable justification for the action taken by the BPD here; in rejecting the appointing authority’s reasons out of hand, the Commission overstepped its authority.”
10/29/09	Suffolk Superior Court (Judge Connors)	6/26/08	Appointing Authority (Decision to deny Appellant’s reclassification appeal affirmed)	John B. Shields v. Department of Revenue	C-06-303	Guerin	Affirmed	<ul style="list-style-type: none"> “Notwithstanding . . . testimony about the inconsistencies in the DOR’s classification system, the Commission’s hearing officer found that, in this case, Shields had been properly classified as a Tax Examiner VI . . . there was substantial evidence to support that conclusion, and nothing in the record indicates that the hearing officer’s decision was based upon an error of law.
11/12/09	Middlesex Superior Court (Judge Chernoff)	12/11/08	HRD (Appellants appeals deemed untimely; request for investigation denied)	Stephen P. O’Neill v. City of Lowell and HRD	G2-08-97	Stein	Affirmed	<ul style="list-style-type: none"> Appellant failed to file fair test appeal with Commission within statutorily required 17 days. Although it did not impact the outcome of this appeal, Court did clarify that the time period for filing appeal with HRD does not begin until applicants RECEIVES HIS TEST SCORE from HRD.
2/15/11	Appeals Court	<i>O’Neill v. Lowell and HRD: Appeals Court Affirmed Superior Court Decision</i>						

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
11/18/09	Suffolk Superior Court (Judge McIntrye)	6/12/08	Appointing Authority (upholding termination)	McGuiness and Mullen v. Department of Correction	D-05-53 & D-05-54	DALA	Affirmed	<ul style="list-style-type: none"> A Commission split votes dismisses the Appellant's appeal; There was substantial evidence to support the DALA judge's factual findings as well as her recommended decision.
7/1/13	SJC	<i>McGuiness and Mullen v. DOC: SJC upheld Superior Court Decision. Concluded that tie-vote of Commission resulted in the Magistrate's decision standing pursuant to the CMRs regarding recommended decisions being affirmed if no action within 180 days.</i>						
11/18/09	Middlesex Superior Court (Judge Kern)	12/4/08	HRD (upholding decision not to credit time as MIT police officer toward 25-year 2-point credit)	DeFrancesco, James v. Human Resources Division	G1-08-54	Bowman	Affirmed	<ul style="list-style-type: none"> Time spent as MIT police officer should not count toward 25 years of services required for 2-point training and experience credit on promotional exam.
12/17/09	Suffolk Superior Court (Judge Hogan)	11/13/08	Appointing Authority (upholding termination)	Michael Rizzo v. Town of Lexington	D1-07-736	Bowman	Affirmed	<ul style="list-style-type: none"> Commission decision was supported by substantial evidence and warranted by the facts.
8/9/11	Appeals Court (Justices Kalkfer, Vuono & Rubin)	<i>Rizzo v. Town of Lexington: Appeals Court affirmed Superior Court's ruling upholding Commission decision. "The Commission's findings explain in great detail (and with ample record support) the variety of reasons for assessing the credibility of witnesses as it did."</i>						
12/22/09	Middlesex Superior Court (Judge Budd)	1/8/09	Appellant (allowing bypass appeal in part)	Douglas Cronin v. Town of Arlington	G2-07-269 & G2-07-270	Bowman	Vacated	<ul style="list-style-type: none"> Although town failed to prove 2 of 3 reasons proffered regarding bypass, they were justified based on third reason, which they did prove.
1/4/10	Suffolk Superior Court (Judge Hines)	10/30/08	Appellant (allowing bypass appeal)	David Suppa v. Boston Police Department	G1-07-346	Stein	Reversed	<ul style="list-style-type: none"> The Commission exceeded its authority and was not in accordance with the law when it found that the Department should not have bypassed Suppa based upon evidence that Suppa was arrested and charged with assault and battery with a deadly weapon, a felony; assault to maim, a felony; assault and battery, a misdemeanor and admission to felonious acts.
5/27/11	Appeals Court (Justices Grasso, Grainger and Caarhart)	<i>Suppa v. Boston Police Department: Appeals Court affirmed Superior Court's ruling which vacated the Commission's decision, which was in favor the Appellant.</i>						

2/2/16; cases do not include default orders that resulted from failure to appear or failure to prosecute appeal.

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
12/30/09	Suffolk Superior Court (Judge Roach)	9/25/08	Appellant (overturning bypass decision)	Shawn Roberts v. Boston Police Department	G1-06-321	Stein	Affirmed	<ul style="list-style-type: none"> Stripped of the inappropriate foundations [as cited by the Commission], BPD expert opinions failed to establish reasonable justification for the bypass which was based on the results of the Appellant's psychological evaluation.
1/13/10	Suffolk Superior Court (Judge Lauriat)	9/26/09	HRD	Joseph et al v. HRD	E-08-228	Bowman	Affirmed	<ul style="list-style-type: none"> Appeal was properly dismissed as it was untimely; Even if appeal was timely, Commission properly exercised its discretion to not grant relief.
2/5/10	Suffolk Superior Court (Judge MacLeod-Mancuso)	11/20/08	Appellant (overturning bypass decision)	Leslie Anderson v. Department of Correction	G1-08-106	Stein	Reversed	<ul style="list-style-type: none"> It is permissible for DOC to review a CORI and make a determination based on the record as to whether the applicant should be denied. The Department need not investigate the underlying circumstances of individual offenses in deciding whether the applicant is suitable. To require otherwise would place on the Department the unreasonable burden of examining every single criminal charge on an applicant's record by ordering docket entries, accessing police reports, and even ordering transcripts of proceedings. The time and cost expended in such an exercise would be prohibitive.
2/11/10	Suffolk Superior Court (Judge Brassard)	1/29/09	Appellant (overturning demotion)	Raymond Orr v. Town of Carver	D-03-307	Guerin	Affirmed	<ul style="list-style-type: none"> For the reasons stated on the record (in court)
2/12/10	Suffolk Superior Court (Judge Connolly)	5/22/08	Appellant (overturning bypass decision)	Albert Riva v. Boston Police Department	G1-07-283	Bowman	Reversed	<ul style="list-style-type: none"> The Civil Service commission decision permits a prospective employee to lie or make false or untrue statements to his prospective employer and then on appeal to the Civil Service Commission to prove that his original false and untrue statements that he made to his prospective employer were in fact themselves lie or untrue statements, and then as a result thereof, the BPD would be ordered not to bypass him.

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
3/16/10	Bristol Superior Court (Judge Moses)	9/4/08	Appointing Authority (upholding 18-month suspension)	David DeOliveira v. City of Taunton	D-04-200	Bowman	Affirmed	<ul style="list-style-type: none"> The Commission had substantial evidence to support its conclusion that the Appellant engaged in an off-duty physical altercation and that the Appointing Authority had reasonable justification to impose penalties on him for his violation of the rules and regulations of the Taunton Police Department
3/29/10	Hampden Superior Court (Judge Kinder)	7/3/08	Appointing Authority (upholding 3-day suspension)	Edward Eckert v. City of Holyoke	D-07-181	Guerin	Affirmed	<ul style="list-style-type: none"> The Commission's decision was supported by substantial evidence, was not based on an error of law and was not arbitrary and capricious.
4/14/10	Suffolk Superior Court (Judge Quinlan)	4/9/09	Appointing Authority (denied Appellant's Section 42 appeal)	Barry Thornton v. Town of Andover	D-08-135 D-08-195	Bowman	Overtured	<ul style="list-style-type: none"> The Court construes the phrase "five days or less" in s. 41 to mean five calendar days, i.e. "the space of time that elapses between two successive midnights". The suspension of the plaintiff began at 08:00 hours on June 22, 2008 and lasted until 08:00 hours on July 7, 2008. June 22 and 29 and July 6 were Sundays, June 28 and July 5 were Saturdays and July 4 was a legal holiday. Workdays consisted of two calendar days. On days off, the plaintiff was prohibited from working any details which would otherwise have been available. In calculation the days on which the plaintiff was suspended, the court excludes Saturday, Sundays and legal holidays as required under s. 41. Using this formulation, the plaintiff was suspended without a hearing for ten days in violation of s. 41.
9/21/11	Appeals Court (Justices Brown and Rubin [Kantrowitz dissenting])	<i>Thornton v. Town of Andover: Appeals Court upheld Superior Court's interpretation of Section 43 in regard to when a hearing is required before a suspension is imposed.</i>						

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
5/12/10	Suffolk Superior Court (Judge Hines)	4/9/09	Appellant	Daniel Moriarty v. Boston Police Department	G1-05-442	Guerin	Reversed	<ul style="list-style-type: none"> The Commission's decision cannot be sustained because the Department's retraction of its employment offer was reasonably justified. Two qualified psychiatrists evaluated the Appellant and concluded that he was psychologically unfit for the position of Boston Police Officer.; The Appellant's work history, however stellar, cannot displace the results of the psychological testing and clinical interviews of Dr. Scott and Dr. Reade. The Commission erred in concluding otherwise.
5/27/10	Middlesex Superior Court (Judge Curran)	10/9/08	Appellant	Michael Barry v. Town of Lexington	G2-05-231	Henderson	Reversed	<ul style="list-style-type: none"> Once again, the Commission has engaged in revisionist and creative fact-finding. Although the Town articulated four valid reasons for bypassing the Appellant, the Commission gave the Town no deference and substituted its own judgment for that of the Town's.
6/16/10	Suffolk Superior Court (Judge Brassard)	5/7/09	Appellant	Kelley Coutts v. Boston Police Department	G1-07-277	Henderson	Affirmed	<ul style="list-style-type: none"> After hearing and for reasons set forth on the record ...[Commission decision affirmed]
6/24/10	Bristol Superior Court (Judge Kane)	1/15/09	Appointing Authority (upholding layoff)	Stanley Rysz v. City of New Bedford	D-03-498	Bowman	Affirmed	<ul style="list-style-type: none"> The Commissioner's decision[s]: that (1) the layoff were due to a lack of funds; (2) the Appellant was not entitled to reinstatement in another distinguishable position; (3) the Appellant's veteran (as opposed to disabled veteran's) status did not grant him preference in layoffs;
<p><i>Rysz: 3/12/12: Appeals Court affirmed Superior Court decision. (Rapoza, C.J., Mills & Graham, JJ.)</i> <i>Rysz: 5/3/12: SJC denied request for further appellate review.</i></p>								

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6/29/10	Suffolk Superior Court (Judge Fahey)	9/10/09	Appointing Authority (upholding suspension)	Nancy Dalrymple v. Town of Winthrop	D-08-13	Bowman	Affirmed	<ul style="list-style-type: none"> The Commission reasonably found that the duty to determine if a police officer is fit for duty can not be carried out if it is left to the police officer being examined to determine what portions of the fitness for duty evaluation will be transmitted to the Town. 	
7/16/12	Appeals Court (Justices Berry, Smith and Rubin)	<i>Dalrymple v. Town of Winthrop: Appeals Court affirmed Superior Court Decision</i>							
7/22/10	Middlesex Superior Court (Judge Gershengorn)	9/17/09	Appointing Authority (upholding suspension)	Douglas Cronin v. Town of Arlington	D-07-307	DALA	Affirmed	<ul style="list-style-type: none"> The court defers to the magistrate's factual findings and credibility determinations, and finds that the record amply supports her decision. 	
7/22/10	Suffolk Superior Court (Judge Hines)	5/14/09	Appointing Authority (upholding suspension)	Stacey Hightower v. Boston Police Department	D-08-219	Bowman	Affirmed	<ul style="list-style-type: none"> The commission did not err ... when it concluded it did not have the authority to expunge a provision in the plaintiff's personnel records under G.L. c. 149, s. 52C. 	
8/5/10	Middlesex Superior Court (Judge Gershengorn)	8/20/09	Appellant (overturning promotional bypass)	Stephen Wilcinski v. Belmont Fire Department	G2-07-384	Henderson	Overtured	<ul style="list-style-type: none"> The Commission impermissibly substituted its judgment for that of the Appointing Authority and therefore the Commission's decision to reverse the Appointing Authority's decision to bypass .. was arbitrary and capricious. 	
8/12/10	Suffolk Superior Court (Judge Roach)	1/7/10	Appointing Authority (upholding termination)	Phyllis Igoe v. Boston Police Department	D1-08-136	DALA	Affirmed	<ul style="list-style-type: none"> The Commission's decision was based on substantial evidence, was not arbitrary and capricious or based on an error of law. Court refused to consider new materials submitted by Appellant. 	
8/17/10	Appeals Court (Justices Trainor, Rubin & Fecteau)	8/23/07	Appointing Authority (upholding failure to reinstate Appellant)	Jose Santiago v. Methuen Police Department	D-05-113 D-04-424	Guerin	Affirmed	<ul style="list-style-type: none"> The municipality was not required to pay wages and the cost of retraining under the circumstances of this case. 	
9/9/10	Suffolk Superior Court (Judge Gaziano)	10/22/09	Appellant (overturning bypass decision)	Jill Kavaleski v. Boston Police Department	G1-07-299	Henderson	Overtured	<ul style="list-style-type: none"> The [BPD] was prejudiced by the Commissioner's reliance upon testimony in a prior Commission decision without producing a transcript and giving BPD notice and the opportunity to challenge the testimony. 	
11/6/12	SJC	<i>Kavaleski: SJC overturned Superior Court and affirmed Commission Decision</i>							<ul style="list-style-type: none"> The sole task of the [psychiatrist] is to determine whether the candidate had a psychiatric condition that would prevent him / her from performing, even with a reasonable accommodation, the essential functions of the job.

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10/20/10	Middlesex Superior Court (Judge Fishman)	9/23/10	Appellant's request to reinstate appeal allowed	Dararith Ung v. City of Lowell	D1-08-150	Stein	Motion to Stay Denied; Full Hearing before Commission to proceed	<ul style="list-style-type: none"> The Commission has authority in certain circumstances to re-open a dismissed appeal.
10/15/10	Suffolk Superior Court (Judge McIntrye)	10/29/09	Appointing Authority	William McDonald v. Brookline	D1-09-285	Stein	Affirmed	<ul style="list-style-type: none"> Commission has no jurisdiction over Section 38 layoffs.
10/28/10	Suffolk Superior Court (Judge Roach)	4/9/09	Appellant (overruling bypass decision)	Gary Lee v. Boston Police Department	G1-07-140	Henderson	Vacated	<ul style="list-style-type: none"> Newly-offered material (post-bypass decision) was inadmissible in this case and should not have been considered; The Commission erred in its treatment of the court criminal records; It is for the Appointing Authority, not the Commission, to balance the circumstances and weight of the Appellant's criminal charges and dispositions. It was then for the Commission to determine if that balance as struck by BPD was supported by substantial evidence; The Commission exceeded its authority when it determined that the criminal conviction and 209A order were not themselves justified; There is nothing inadequate as a matter of law about a policy or practice against hiring perpetrators of domestic violence; "The law is that appointing authorities have wide discretion (in hiring decisions).

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10/14/10	Hampden Superior Court (Judge Josephson)	4/2/09	Appointing Authority (upholding 15-day suspensions)	Skwira, Shattuck and Wilson v. Holyoke Police Department	D-08-196; D-08-197; D-08-198	Bowman	Affirmed	<ul style="list-style-type: none"> There is ample evidence in the record to support the Commission's conclusions; There is no legal error in the Commission's decision that the Appellants' "Carney Rights" were not violated here.
11/29/10	Suffolk Superior Court (Judge Gaziano)	10/29/09	Appellant (overturning bypass)	Brian Walker v. Boston Police Department	G1-07-371	Henderson	Vacated	<ul style="list-style-type: none"> The Commission cited no evidence whatsoever in support of its supposition that the BPD was motivated by bias; The Commission improperly assigned to the BPD the burden of proving its reason for bypassing the Appellant – his arrest – was true; To the extent the Commission suggested that the Appellant's positive recommendations required the BPD to discount other facts that if found concerning, it is the BPD's prerogative, and not the Commission's, to balance the significance of those factors.
1/16/13	Appeals Court (Kantrowitz, Sikora & Rubin)	Walker v. Boston Police Department: Appeals Court vacated Superior Court decision and reinstated Commission decision, distinguishing this case from <u>Beverly</u> .						
1/7/11	Middlesex Superior Court (Judge Kern)	1/7/10	HRD	John P. Kelley v. City of Malden	E-09-255	Bowman	Affirmed	<ul style="list-style-type: none"> HRD's decision not to issue new certifications under the old 2007 list pending the establishment of the 2009 list was not arbitrary or capricious.
1/11/11	Suffolk Superior Court (Judge MacLeod)	9/24/09	Appointing Authority (upholding bypass)	Michael Gailliard v. Massachusetts Parole Board	G1-08-226	Henderson	Affirmed	<ul style="list-style-type: none"> The Commission's decision is supported by substantial evidence;
6/17/11	Middlesex Superior Court (Judge Murtagh)	11/12/09	Appointing Authority (termination upheld)	Tobias v. Newton	D1-08-207	DALA	Affirmed	<ul style="list-style-type: none"> Plaintiff did not file appeal within 30 days; not tolled by motion for reconsideration.
1/31/11	Suffolk Superior Court (Judge Budd)	1/15/09	Appellant (overturning bypass)	Jeffrey Cordeiro v. Boston Police Department	G1-07-362	McConney	Vacated	<ul style="list-style-type: none"> When an individual has displayed poor judgment and dishonesty, it for the BPD, not the Commission, to decide whether to take on the risk inherent in hiring that individual.

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
3/22/11	Suffolk Superior Court (Judge Troy)	12/10/09	Appointing Authority (upholding 15-day suspension)	Brian Sweet v. Department of State Police	D-08-209	Bowman	Affirmed	<ul style="list-style-type: none"> The Commission had sufficient evidence to make its credibility determinations.
8/24/12	Appeals Court Justices Cypher, Grasso and Sikora)	<i>Sweet v. Department of State Police: Appeals Court affirmed Superior Court decision affirming Commission decision</i>						
3/17/11	Suffolk Superior Court (Judge Hopkins)	7/23/09	Appointing Authority (upholding termination)	Carl Gonsalves v. Department of Correction	D1-07-234	DALA (Imparato)	Affirmed	<ul style="list-style-type: none"> There is substantial evidence [in the decision] to establish that the Appellant participated in a scheme to deliver contraband jewelry to inmates.
4/11/11	Suffolk Superior Court (Judge Fahey)	1/7/10	Appointing Authority (upholding limited bumping rights)	Lisa Tomashpol v. Chelsea Soldiers Home	D1-09-188	Stein	Affirmed	<ul style="list-style-type: none"> Affirms that bumping rights are limited to title or next lower titles for official service employees.
4/28/11	Suffolk Superior Court (Judge Macdonald)	3/11/10	Appellant	Darren Woolf v. Town of Randolph	G1-09-36	Henderson (for majority)	Vacated	<ul style="list-style-type: none"> The Town's judgment of Woolf's fitness falls squarely within its lawful discretionary authority and was supported by substantial evidence. Absent arbitrariness, bias or evidence of improper political influence – which are the core concerns of the Commission's appellate function – an agency's judgment on matters such as that before the Court cannot be invalidated.
3/22/12	Woolf: Appeals Court affirmed Superior Court's decision overturning the Commission decision.							<ul style="list-style-type: none"> Appeals Court: The commission must stay focused on its mission to guard against political considerations, favoritism or bias in governmental employment decisions ... [or] its rulings will continue to be overturned in the courts.
5/3/12	Woolf: SJC denied request for further appellate review.							
6/13/11	Suffolk Superior Court (Judge Troy)	1/15/09	Appellant (overturning bypass)	Ida Candreva v. Boston Police Department	G1-06-185	Henderson	Affirmed	<ul style="list-style-type: none"> There was substantial evidence in the record to support the Commission's findings. All of the relief ordered by the Commission is rationally related to its finding that the defendant's application was prejudiced by bias.

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Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
6/17/11	Suffolk Superior Court (Judge McIntyre)	12/10/09	Appointing Authority (upholding suspension; overturning transfer)	Brian Sweet v. Department of State Police	D-09-334	Bowman	Affirmed	<ul style="list-style-type: none"> The decision was supported by substantial evidence.
3/22/13	Appeals Court (Trainor, Katzmann & Sikora)	<i>Sweet v. State Police: Appeals Court affirmed Superior Court decision upholding Commission decision.</i>						
7/22/11	Suffolk Superior Court (Judge Connolly)	12/18/09	Appointing Authority (upholding bypass)	Michael Clark v. Town of Barnstable	G2-08-60	DALA	Overtured	<ul style="list-style-type: none"> The Town's incorrect application of a legal standard and a flawed selection process suggest bias.
7/26/11	Essex Superior Court (Judge Fahey)	11/4/10	Appellant (modifying termination to suspension)	Eugene Casey v. Methuen Public Schools	D1-07-124	Henderson	Vacated	<ul style="list-style-type: none"> The Commission's decision was based on errors of law and represented a substitution of judgment by the Commission.
8/15/11	Suffolk Superior Court (Judge Ball)	9/23/10	Appointing Authority (upholding termination)	Timothy O'Sullivan v. Brookline School Department	D1-10-77	Bowman	Affirmed	<ul style="list-style-type: none"> The law is clear; the Appellant pled guilty to assault charges and received a 90 day House of Correction sentence. G.L. c. 31, § 50 provides that he could not remain employed for a year following his conviction unless the Superintendent exercised his discretion to retain him; Moreover, the Commission had no jurisdiction to consider the Appellant's appeal premised on the second grounds for his termination: absent without leave for more than 90 days.
6/21/13	Appeals Court (Justices Cohen, Green & Vuono)	<i>O'Sullivan v. Brookline: Appeals Court affirmed Commission decision for same reasons as Superior Court</i>						
9/30/11	Suffolk Superior Court (Judge Hines)	1/7/10	Appellant (overturning bypass)	Richard Savickas v. Boston Police Department	G1-07-51	Henderson	Vacated	<ul style="list-style-type: none"> There was "no legally cognizable basis to reject the Department's decision to bypass [the Appellant]".

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Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
11/10/11	Suffolk Superior Court (Judge Kaplan)	11/18/10	Appellant (Overturned 5-day suspension)	Dennis Hansbury v. DOC	D-05-137	Henderson	Affirmed in Part	<ul style="list-style-type: none"> The Commission's conclusion that "willful" as used in Rule 15(b), means intentional is not an error of law. To the contrary, its construction is consistent with Massachusetts jurisprudence.
11/21/11	Suffolk Superior Court (Judge Connolly)	9/21/11	Appellant (Overturning Bypass; vacating appointment)	Gary Smyth v. City of Quincy	G2-10-3	Stein	City's Motion to Stay Denied; Commission Decision Stands	<ul style="list-style-type: none"> The Commission's order was well within the power and discretion of the Civil Service Commission to issue under the facts and the law governing this case.
12/1/11	Suffolk Superior Court (Judge Giles)	11/12/09	Appointing Authority (upholding 5-day suspension)	William Crowley v. Department of Correction	D-09-27	DALA	Affirmed	<ul style="list-style-type: none"> There is substantial evidence to support the credibility assessments of the DALA Magistrate.
12/30/11	Suffolk Superior Court (Judge Connors)	11/18/10	Appointing Authority (3-2 Majority upheld 30-day suspension)	Dennis Hansbury v. DOC	D-04-369	Stein (for majority)	Affirmed	<ul style="list-style-type: none"> In denying the Appellant's challenge to his thirty-day suspension, the Commission did not reach a decision that was unsupported by substantial evidence nor did it commit error of law.
								<ul style="list-style-type: none">
1/11/12	Worcester Superior Court (Judge Tucker)	4/24/11	Appellant (Appellant did not resign and should be reinstated; procedural error by Appointing Authority)	Karen Walsh v. City of Worcester	D-08-258	Henderson	Affirmed	<ul style="list-style-type: none"> The hearing examiner found that Walsh had never voluntarily resigned and that this constituted a harmful error in the application of the appointing authority's procedure or an error of law. The hearing examiner's decision is supported by substantial evidence and is warranted by the facts found by the hearing examiner.

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision in Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
2/17/12	Suffolk Superior Court (Judge Kaplan)	9/23/10	Appointing Authority (3-2 Majority upheld suspension and demotion)	John Sullivan v. Department of Correction	D-05-117	Bowman (for majority)	Affirmed	<ul style="list-style-type: none"> Affirmed "for reasons set forth in the [court's] record.
2/29/12	Suffolk Superior Court (Judge Kaplan)	12/2/10	Appellant (3-2 majority allowed bypass appeal)	David Chaves v. Boston Police Department	G1-08-151	Henderson	Vacated	<ul style="list-style-type: none"> The Commission's role did not include analyzing Dr. Reade's opinion to decide whether her conclusion was based on a methodology that the Commission deemed medically appropriate and her conclusion accurate under the Commission's standards.
3/22/12	Suffolk (Judge Troy)	9/17/09	Appointing Authority (Termination upheld)	William Horan v. DOC	D1-07-321	DALA	Affirmed	<ul style="list-style-type: none">
5/2/12	Hampden (Judge Josephson)	5/6/10	Appellant (Termination Overturned)	Joseph McDowell v. Springfield	D-015-148	Bowman	Affirmed	<ul style="list-style-type: none"> Commission has jurisdiction to hear termination appeal of provisionally promoted employees.
8/18/14	SJC	Commission Decision Affirmed in Part: Commission has jurisdiction to hear termination and layoff appeals of provisionally promoted employees.						
5/2/12	Suffolk Superior Court (Judge Fabricant)	3/10/11	Appointing Authority	Max Garfunkel v. DOR	G2-08-118	Stein	Affirmed	<ul style="list-style-type: none"> Undisputed that Appellant did not meet MERs. Fact that no exams have been given is beyond control of court and Commission.
5/2/12	Worcester Superior Court (Judge Lemire)	6/30/11	Appointing Authority (upholding termination)	Ryan Muth v. City of Leominster	D1-10-109	Bowman	Affirmed	<ul style="list-style-type: none"> There was substantial evidence to show that the Appellant violated a Last Change Agreement.
8/1/13	Appeals Court (Justices Rubin, Fecteau, and Hines)	Appeals Court: Commission Decision Affirmed. The Commission's consideration of prior incidents should have been anticipated by the Appellant, as the commission was required to determine whether the triggering incident constituted the same or similar misconduct.						
5/22/12	Suffolk Superior Court (Judge Brassard)	11/4/10	Appointing Authority (denying reclassification appeal)	Louise DeRosa v. Department of Revenue	C-99-880	Henderson	Affirmed	<ul style="list-style-type: none"> DeRosa cannot directly appeal her position's job group pursuant to § 49. Such an appeal is not permitted under § 49 and, furthermore, is superseded by the terms of the CBA.

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Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision in Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
7/15/12	Bristol Superior Court (Judge McGuire)	7/11/11	Appellant (overturning layoffs)	Milanoski and Ross v. Attleboro Redevelopment Authority	D1-09-416 & D1-09-417	Bowman	Affirmed	<ul style="list-style-type: none"> The Commission did not commit any error of law in considering evidence of the Mayor's goals and actions to resolve the issue of whether the Appointing Authority violated G.L. c. 121B, § 52
12/2/13	Appeals Court (Justices Berry, Green and Trainor)	<i>Milanoski and Ross v. ARA: Appeals Court Upheld Superior Court Decision: "Simply put, the acts described herein take this case beyond the usual conduct of municipal business by separating governing entities and demonstrate a unified plan undertaken in tandem to abolish civil service positions without just cause."</i>						
7/19/12	Suffolk Superior Court (Judge Ball)	9/23/10	Appellant (overturning termination)	Leon Dykas v. City of Worcester	D1-09-382	Bowman	Affirmed	<ul style="list-style-type: none"> The administrative record and the case law support the Commission's conclusion that the Appellant may choose to testify [at the local hearing], or not, and that he can not be required to testify at his own hearing.
2/26/15	Appeals Court (Justices Fecteau, Sullivan and Maldonado)	<i>Dykas v. Worcester: Appeals Court upheld Superior Court Decision; "The Commission is afforded 'considerable leeway' in interpreting the statute, and consistent with this authority, the commission simply decided a legal question pertaining to what, if any, obligation Dykas had to testify at this § 41 hearing."</i>						
7/26/12	Essex Superior Court (Judge Cornetta)	7/20/10	Appellant (Termination modified to suspension)	Joseph Solomon v. City of Methuen	D-07-159 & D1-08-114	Stein	Affirmed	<ul style="list-style-type: none"> The decision is supported by numerous factual findings contained in the record and many credibility determinations; There is a different standard between discipline and bypass appeals. A municipality should be able to enjoy more freedom in deciding whether to appoint someone as a new police officer than in disciplining an existing tenured one.
8/30/12	Worc. Superior Court (Judge Wrenn)	11/3/11	Appointing Authority (Termination Upheld)	Michael Kelley v. Department of Correction	D1-10-181	DALA	Affirmed	<ul style="list-style-type: none"> The magistrate was presented with clear factual disputes and was required to make credibility determinations after full, fair and aggressive direct and cross examination. The hearing officer made those credibility determinations based on her roles as a fact finder and the court does not have authority to revisit those decisions in a de novo fashion.
8/30/12	Suffolk Superior Court (Judge Hogan)	10/29/09	Appellant	Peter Cyrus v. Town of Tewksbury	G1-08-107	Stein (for Majority)	Reversed	<ul style="list-style-type: none"> The Town's bypass of Cyrus was reasonably justified and based on substantial evidence in the record because it was based on poor reviews Cyrus received from an employer for attendance issues and his disrespecting a supervisor, as well as his relationship with his ex-wife.

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Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision in Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
11/5/12	Bristol Superior Court (Judge MacDonald)	6/2/11	Appellant (overturning termination)	William Dunn v. City of Attleboro	D1-09-218	Stein	Affirmed	<ul style="list-style-type: none"> The Commission reasonably concluded that there was no objective factual basis to the proposition that the Appellant has misrepresented his medical condition to the Town or the Town's physician.
11/6/12	Suffolk Superior Court (Judge Connors)	6/28/12	Appellant (Overruled HRD's definition of veteran)	Kevin Shea v. HRD	E-11-337	Stein	Decision Stayed	<ul style="list-style-type: none"> HRD is likely to prevail in regard to its interpretation of the statute as it relates to the definition of a veteran.
3/21/13	Suffolk Superior Court (Judge Connors)						Decision Vacated	<ul style="list-style-type: none"> HRD's interpretation of statute is correct.
12/14/12	Bristol Superior Court (Judge Moses)	7/26/12	Appellant (modifying termination to 90-day suspension)	William O'Connell v. City of Attleboro	D1-11-123	Stein	Motion to Stay Denied (Decision Stands)	<ul style="list-style-type: none"> There is an insufficient showing of a likelihood of success on the merits (to grant a stay)
1/22/14	Appeals Court (Grasso, Kafker & Graham)						Vacated	<ul style="list-style-type: none"> The Commission improperly substituted its judgment for the City by reducing the penalty.
11/21/12	Suffolk Superior Court (Judge Fahey)	11/3/11	Appellant (modifying 5-day suspension to written warning)	Robert Tinker v. Boston Police Department	D-10-120	Henderson	Vacated	<ul style="list-style-type: none"> Under the facts found by the Commission, it was an abuse of discretion, in excess of statutory authority, and not in accordance with Massachusetts law to conclude that the Department disparate discipline.
12/21/12	Suffolk Superior Court (Judge Brieger)	9/23/210	Appointing Authority (5-day suspension upheld)	Michael Suarez v. DOC	D-08-5	Bowman (for majority)	Affirmed	<ul style="list-style-type: none"> The culpability of others is irrelevant to whether the Appellant violated DOC rules.
1/7/13	Suffolk Superior Court (Judge MacLeod)	12/15/11	Appointing Authority (reclassification request denied)	Thomas Bowen v. DCR	C-11-147	DALA	Vacated	<ul style="list-style-type: none"> HRD is required to conduct a hearing when individuals file a reclassification appeal. Case remanded to HRD to conduct hearing.
1/22/13	Suffolk Superior Court (Judge MacLeod)	12/29/11	Appellant (overturning bypass)	Renee Palmer v. Boston Police Department	G1-11-18	Henderson	Reversed	<ul style="list-style-type: none"> The Boston Police Department presented sufficient evidence that the candidate did not possess the qualities expected and required of a Boston police officer.

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Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision in Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
2/28/13	Suffolk Superior Court (Judge Cosgrove)	1/26/12	HRD	Rami Awad v. HRD	E-11-277	Stein	Affirmed	<ul style="list-style-type: none"> The court "cannot say the Commission committed an error of law in its broad construction of "fault"" (in relation to request for 310 relief)
3/12/13	Suffolk Superior Court (Judge MacDonald)	2/4/10	Appellant (psychological bypass appeal allowed)	Daniel Fitzgibbon v. Boston Police Department	G1-07-224	Henderson	Commission Decision Vacated	<ul style="list-style-type: none"> The decision invalidating the Department's conclusion that the Appellant was psychologically unfit was, in essence a substitution of the Commission's own judgment for that of the Department.
4/25/13	Suffolk Superior Court (Judge Troy)	4/19/12	Appellant (bypass overturned)	Daniel Gould v. Boston Fire Department	G1-10-101	Stein	Remanded	<ul style="list-style-type: none"> The Commission (as part of a motion hearing) inappropriately weighed the evidence, made credibility determinations and found the ultimate facts in dispute, rather than making a determination based on undisputed facts.
5/13/13	Suffolk Superior Court (Judge McEvoy)	5/31/12	HRD (upholding right to revoke eligible list)	Billerica v. HRD	E-12-99	Bowman	Remanded	<ul style="list-style-type: none"> Evidentiary hearing required to allow the Town to present facts and evidence relative to issues of the revocation of the eligible list.
6/10/13	Suffolk Superior Court (Judge Ullmann)	4/21/11	Appointing Authority (upholding termination)	Elliot Clark v. Boston Housing Authority	D1-08-74	Stein	Affirmed	<ul style="list-style-type: none"> The Commission carefully considered the evidence, and had a sufficient basis to hold that Clark's conduct clearly represents misconduct that BHA was justified to consider to adversely affect his work in the public service and established just cause for his termination.
7/17/13	Middlesex Superior Court (Judge Krupp)	7/26/12	Appellant (allowing request for retro date when on active military duty)	Thomas Martin v. City of Woburn	G1-12-61	Bowman	Affirmed	<ul style="list-style-type: none"> While the Commission's authority to consider the Appellant's petition was clear and sufficient to justify its actions under Section 2(a), the Commission also did not err .. in concluding alternatively that the Appellant's petition did not violate the 30-day rule for an appeal where Woburn did not send the Appellant notice of its action.
7/29/13	Suffolk Superior Court (Judge Brieger)	4/19/12	Appointing Authority (upholding promotional bypass)	Scott Sherman v. Town of Randolph	G2-10-192	DALA	Affirmed	<ul style="list-style-type: none"> There was credible and substantial evidence to support the findings of the Civil Service Commission.
9/24/15	SJC	<i>Sherman v. Randolph: SJC affirmed Superior Court Decision. HRD may delegate to an Appointing Authority is duty under G.L. c. 31, s. 27. The bypass was properly affirmed by the Commission.</i>						

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Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision in Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
8/2/13	Suffolk Superior Court (Judge Brieger)	2/9/12	Appointing Authority (provisional employee cannot appeal layoff)	Charlene Phillips v. DPH and HRD	D1-11-228	Stein	Affirmed	<ul style="list-style-type: none"> The Commission's decision was based on substantial evidence in the record and was not arbitrary or capricious.
8/5/13	Suffolk Superior Court (Judge Leibensperger)	1/12/12	Appointing Authority (no violation found related to out-of-grade appointments)	Kelley et al v. Boston Fire Department	G2-09-230-233	Stein	Remanded	<ul style="list-style-type: none"> The Commission erred by deeming HRD's role as "ministerial" regarding the approval of emergency appointments and by placing the burden on the Appellants to show that the emergency appointments were not justified.
11/18/14	Appeals Court	<i>Appeals Court dismissed BFD's appeal of Superior Court Decision stating: "As a general rule, an aggrieved litigant cannot as a matter of right pursue an immediate appeal from an interlocutory order unless a statute or rule authorizes it." Superior Court's order to remand case to Commission stands.</i>						
9/20/13	Suffolk Superior Court (Judge MacLeod)	1/28/10	Appointing Authority (upholding 1-day suspension)	Robert Griffin v. City of Chelsea	D-05-391	DALA	Affirmed	<ul style="list-style-type: none"> Whistleblower protections did not apply; Commission's decision was based on substantial evidence.
9/27/13	Suffolk Superior Court (Judge Lauriat)	6/3/10	Appointing Authority (upholding bypass)	Alicia Crosby v. Boston Police Department	G1-06-286	Bowman (for majority)	Vacated	<ul style="list-style-type: none"> Because the majority failed to provide new findings of fact and adopted the hearing officer's findings, the conclusion is not supported by substantial evidence.
10/10/13	Suffolk Superior Court (Judge Ames)	9/23/10	Appointing Authority (upholding reclassification denial)	James Straub v. DCR	C-09-31	Stein	Affirmed	<ul style="list-style-type: none"> Citing Fournier v. Civil Service Commission, 77 Mass. App.Ct. 1121 (2010), affirms standard for reclassification being if employee "spends at least fifty percent of her time performing the higher level duties." Appellant did not show this and Commission's conclusion was based on substantial evidence and was not arbitrary.
10/11/13	Suffolk Superior Court (Judge Inge)	12/15/11	Appointing Authority (upholding layoff)	Paul Mendonca v. EOLWD	D1-08-94	McConney	Affirmed	<ul style="list-style-type: none"> Provisional employees in classified positions are not covered by Veterans Tenure Act; the statutory preference for disabled veterans is not absolute.
12/12/14	Appeals Court (Justices Berry, Kafker & Carhart)	<i>MENDONCA: Appeals Court vacated Superior Court and Commission Decision, ruling that this provisional employee was entitled to the disabled veteran preference related to layoffs (last out) and that the hearing officer erred in determining that the Appellant was not qualified for one of the other M3 positions at EOLWD.</i>						

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10/25/13	Appeals Court (Justices Grasso, Graham & Vuono)	7/29/10	Appellant (overturning bypass)	Robert Chermesino v. Boston Police Department	G1-07-389	Henderson	Other (Upheld Superior Court Decision to dismiss BPD's appeal as moot)	<ul style="list-style-type: none"> The BPD has not demonstrated that the Superior Court judge abused his discretion in dismissing the BPD's appeal as moot as the Appellant was provided the relief granted and no longer seeks to be a Boston police officer.
11/18/13	Suffolk Superior Court (Judge Leibensperger)	5/31/12	Appointing Authority (upholding termination)	Mark Waugaman v. Town of Falmouth	D1-09-300	Stein	Affirmed	<ul style="list-style-type: none"> Plaintiff failed to show that the hearing officer lacked substantial evidence in his decision..Plaintiff's argument that he was denied the opportunity to present additional evidence fails.
12/15/13	Suffolk Superior Court (Judge Hines)	8/23/12	Appointing Authority (upholding termination)	Kevin Howard v. Town of Nahant	D-11-60 & D1-11-124	Bowman	Affirmed	<ul style="list-style-type: none"> The court con curs with the judgment of the hearing officer that the evidence supporting the charges against the plaintiff was overwhelming.
1/27/14	Middlesex Superior Court (Judge Ullman)	9/23/10	Appointing Authority (upholding provisional promotion)	Thomas Foster v. DTA	G2-09-360	Bowman	Affirmed	<ul style="list-style-type: none"> The Commission has determined the relief for a civil service employee who challenges a provisional promotion. The remedy to be accorded a plaintiff is a matter within the commission's discretion and will rarely be overturned.
2/6/14	Essex Superior Court (Judge Feeley)	4/4/13	Appointing Authority (upholding termination)	Marlene Bistany v. City of Lawrence	D1-11-273	Stein	Affirmed	<ul style="list-style-type: none"> "The court agrees with the Commission that although the LPD does not have authority to dictate an officer's medical care, the LPD has the right, in order to properly manage its personnel and budget, reasonably to require certain information necessary to enable it to evaluate Bistany's future employment status."
9/10/15	Appeals Court (Justices Cypher, Vuono & Grainger)	<i>Appeals Court: Affirmed Superior Court Decision on same grounds.</i>						
2/28/14	Suffolk Superior Court (Judge Wilson)	2/21/13	Appointing Authority (upholding bypass)	Kristin Malloch v. Town of Hanover	G2-12-278	Bowman	Remanded	<ul style="list-style-type: none"> HRD's delegation of Section 27 functions is not practicable.
9/24/15	SJC	<i>Malloch v. Hanover: HRD may delegate to an Appointing Authority is duty under G.L. c. 31, s. 27. Case remanded to Superior Court to determine if Commission decision was supported by substantial evidence.</i>						

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3/10/14	Suffolk Superior Court (Judge Hopkins)	10/21/10	Appointing Authority (upholding termination)	William Timperley v. Burlington Public Schools	D1-09-195	Bowman	Affirmed	<ul style="list-style-type: none"> It was not an error of law for the Commission, in this case, to consider the Appellant's off-duty misconduct."
3/24/14	Suffolk Superior Court (Judge Fabricant)	6/13/13	Appointing Authority (upholding termination)	Jean Quintin v. City of New Bedford	D1-11-170	Stein	Affirmed	<ul style="list-style-type: none"> The Court concludes that the notice the Appellant received was "fully adequate to encompass the ground on which the Commission based its decision."
4/17/14	Essex Superior Court (Judge Feeley)	6/27/13	Appointing Authority (upholding termination)	Beth Reuter v. Methuen Public Schools	D1-13-75	Stein	Affirmed	<ul style="list-style-type: none"> The court rules as a matter of law that the Commission's decision upholding Reuter's termination must be affirmed because Section 50 requires it.
5/15/15	<i>Appeals Court (Justices Berry, Vuono & Rubin)</i>	<i>Reuter v. Methuen Public Schools: Appeals Court upheld Superior Court decision for same reasons. Commission Decision affirmed.</i>						
4/18/14	Middlesex Superior Court (Judge Kottmyer)	4/4/13	Appellant (modifying termination to suspension)	Tony Rego v. Town of Maynard	D1-11-209	Ittleman	Vacated	<ul style="list-style-type: none"> The Commission exceeded its authority when it modified the penalty imposed by the Town.
6/29/15	<i>Appeals Court (Justices Kantrowitz, Blake & Massing)</i>	<i>Rego v. Maynard: Appeals Court affirmed Superior Court decision, which overturned the Commission's decision to allow the Appellant's appeal in part and modify termination to a suspension.</i>						
5/14/14	Suffolk Superior Court (Judge Lauriat)	4/19/12	Appointing Authority (upholding termination on summary motion)	James Dawson v. Department of Correction	D-99-441	Stein	Reversed / Remanded	<ul style="list-style-type: none"> There was no evidence to support the Commission's conclusion that there was no reasonable expectation that the Appellant could prevail.
6/5/14	Middlesex Superior Court (Judge Henry)	6/5/14	Appointing Authority (denying Appellant's request to re-open appeal)	George Sideris v. City of Peabody	D1-07-174	Stein	Affirmed	<ul style="list-style-type: none"> The Commission's decision on timeliness and its interpretation of its own order was not based on an error of law, arbitrary, capricious or unreasonable.
6/5/15	<i>Appeals Court (Justices Berry, Vuono & Rubin)</i>	<i>Sideris v. Peabody: Appeals Court upheld Superior Court decision for same reasons. Commission decision confirmed.</i>						

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6/17/14	Plymouth Superior Court (Judge Cosgrove)	4/18/13	HRD (To close investigation)	Investigation Re: HRD 2011 Make-up Examination	I-12-291	Bowman	Affirmed	<ul style="list-style-type: none"> The plaintiff was only a participant in the investigation and has no standing to file an appeal regarding the Commission's decision to close the investigation.
6/26/14	Suffolk Superior Court (Judge Frison)	3/22/12	Appointing Authority (upholding layoff)	Kathleen Hawks v. DEP	D1-09-368	Bowman	Affirmed	---
7/11/14	Essex Superior Court (Judge Cornetta)	9/20/12	HRD (dismissing exam-related appeal)	Eugene Salois v. HRD	B1-12-32	Ittleman	Affirmed	c.24 is specific in requiring the plaintiff to first exhaust his administrative remedy with HRD before filing an appeal with the Commission
7/17/14	Suffolk Superior Court (Judge Giles)	8/22/13	Appointing Authority (upholding Termination)	Helga Allen v. Taunton Public Schools	D1-13-86	Bowman	Affirmed	<ul style="list-style-type: none"> Although Taunton did not advise Allen of her appeal rights, the union representatives knew of her termination, should have known the filing deadlines, and should have advised her of those deadlines. The Commission properly took all of these facts into account when deciding that Allen's 8-month delay exceeded the 10-day statutory requirement.
7/17/14	Suffolk Superior Court (Judge Ball)	4/19/12	Appointing Authority (upholding bypass)	Thomas Carlson v. Burlington	G2-11-99	Bowman	Affirmed	<ul style="list-style-type: none"> A review of the administrative record ... establishes that the reasons stated ... in the bypass letter .. are valid.
8/6/14	Suffolk Superior Court (Judge Inge)	5/1/14	Appellant (overturning bypass)	Ashley Sena v. Boston Police Department	G1-14-48	Bowman	Decision Stayed	<ul style="list-style-type: none"> The Commission determined that the Appellant had sixteen weeks from the date she received her bypass notification letter, to undergo a vision reexamination, which was well in excess of sixteen weeks from the date of the failed vision examination.
1/30/15	Suffolk Superior Court (Judge Wilson)	Sena v. BPD: Superior Court remanded case to Commission for an evidentiary hearing. [Parties subsequently reached a settlement agreement.]						
8/7/14	Suffolk Superior Court (Judge Ullmann)	7/11/13	Appointing Authority (upholding suspensions)	Leeman & Pagliuca v. Haverhill	D-12-342 & D-12-346	Bowman	Affirmed	<ul style="list-style-type: none"> "The Commission's decision in this matter was justified and [the] plaintiff's arguments are completely without merit."

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision in Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
9/12/14	Bristol Superior Court (Judge Moses)	6/27/13	Appellant (modifying termination to suspension)	Anthony Moniz v. City of New Bedford	D1-11-296	Stein	Vacated	<ul style="list-style-type: none"> The City validly exercised its discretion in terminating Moniz for just cause.
9/26/14	Middlesex Superior Court (Judge Wilkins)	1/9/14	Appellant (overturning bypass)	Garlen Seong v. Malden Fire Department	G1-13-101	DALA	Affirmed	<ul style="list-style-type: none"> The magistrate “acted within his authority in finding an absence of credible evidence that the Appellant’s evaluation [interview] was below average.”
9/29/14	Suffolk Superior Court (Judge Ball)	6/14/12	Appointing Authority (upholding termination)	Michael Gonsalves v. Town of Falmouth	D1-09-411	Stein	Affirmed	<ul style="list-style-type: none"> The plaintiff has not demonstrated how he was prejudiced by the CSC’s decision with regard to his subpoena requests.
10/6/14	Suffolk Superior Court (Judge Fabricant)	2/28/13	Appellant (on 6 appeals) – overturning termination; Appointing Authority (on 4 appeals) upholding termination	BPD Drug Test Appeals	D-01-1409 D-02-656 D-02-657 D-03-116 D-03-212 D-03-213 D-03-214 D-03-362 D-04-52 D1-07-107	Stein	Affirmed (Relief modified on allowed appeals)	<ul style="list-style-type: none"> “The Commission properly recognized that, if the scientific basis for the hair test were so well-grounded that its results would be unimpeachable in every instance, then a positive hair test would necessarily outweigh any other evidence. But if the scientific basis for the hair test was not so well-grounded – that is, if the hair test was subject to false positive results in some significant percentage of instances – then the hair test could not by itself carry the Department’s burden in the face of an officer’s credible denial. In such instances, evaluation of the preponderance of the evidence would have to depend on other factors.”
11/3/14	Suffolk Superior Court (Judge MacLeod)	1/24/13	Appointing Authority (closing investigation)	Craig Erickson v. Town of Rockland	I-12-100	Bowman	Affirmed	<ul style="list-style-type: none"> The decision as to whether or not to conduct an investigation at all, is at the discretion of the Commission.

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11/19/14	Worcester Superior Court (Judge Tucker)	2/6/14	Appointing Authority (deeming appeal untimely)	Joaquin Kilson v. City of Fitchburg	D1-12-326	Ittleman	Affirmed	<ul style="list-style-type: none"> Since the Appellant did not file a timely appeal, the Commission has jurisdiction to hear the appeal.
2/2/16	Appeals Court (Justices Green, Vuono & Hanlon)	<i>Kilson v. Fitchburg: "The ten-day limitation is jurisdictional and may not be waived or extended [by the Commission]."</i>						
11/25/14	Suffolk Superior Court (Judge Ball)	8/23/12	Appointing Authority (upholding 1-week suspension)	Dennis Perkins v. City of Attleboro	D-09-373	Stein	Affirmed	<ul style="list-style-type: none"> The CSC affirmed the City's disciplinary action on the same basis for which it was issued ... The decision was well reasoned and sufficiently supported by the evidence ...
12/2/14	Norfolk Superior Court (Judge Brady)	1/9/14	Appellant (overturning bypass)	James Rosicky v. Town of Brookline	G1-12-229	Ittleman	Affirmed	<ul style="list-style-type: none"> The Commission was not obliged to regard the alleged risk of substance abuse and the various other personality shortcomings identified by the psychiatrists as preventing the Appellant from performing the essential functions of a firefighter.
12/2/14	Hampden Superior Court (Judge Ferrara)	4/18/13	Appellant (upholding termination)	Kenneth Morehouse v. Weymouth Fire Department	D1-12-17	Ittleman	Affirmed	<ul style="list-style-type: none"> Regardless of the Appellant's job status [before joining the Weymouth Fire Department] he was subject to the smoking prohibition of G.L. c. 41 s. 101A.
12/29/14	Worcester Superior Court (Judge Frison)	1/23/14	Appointing Authority (upholding layoff)	Karen Walsh v. City of Worcester	D1-13-9	Bowman	Overtured	<ul style="list-style-type: none"> Notice must precede a layoff
2/13/15	Suffolk Superior Court (Judge Curran)	8/22/13	Appointing Authority (upholding suspension)	Rigaubert Aime v. Department of Correction	D-13-34	DALA	Affirmed	<ul style="list-style-type: none"> "[There] was sufficient evidence for the Commission ... to find that Officer Aime exercised poor judgment and violated [a rule] warranting discipline."

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3/11/15	Suffolk Superior Court (Judge Hopkins)	9/19/13	Appointing Authority (termination upheld)	Earl Fanion v. Worcester Public Schools	D1-12-271	DALA	Affirmed	<ul style="list-style-type: none"> Decision to terminate custodian who referencing putting a bullet through the head of his supervisor was not based on an error of law, was not arbitrary or capricious and was not an abuse of the Commission's discretion.
4/27/15	Middlesex Superior Court (Judge Miller)	5/17/13	Appellant (overturning termination)	Brian Sweet v. Department of State Police	D1-10-290	Stein	Appointing Authority's Motion for Summary Judgment Denied; Commission Decision Stands At this Time	<ul style="list-style-type: none"> "It is illogical to believe that the legislature intended that a licensing authority could do an end run around the requirements of [the civil service law]. The Colonel cannot chose to deny Sweet a license to carry a firearm and then use the voluntary denial as an excuse to violate a legally binding directive."
5/20/15	Suffolk Superior Court (Judge Ames)	1/23/14	Appointing Authority (upholding termination)	Maria Araujo v. Department of Correction	D1-11-271	Stein	Affirmed	<ul style="list-style-type: none"> "It is clear to this court the seven charges that were not upheld were subsidiary in nature while the three that were upheld formed the core of the offending behavior ... Araujo's deception undoubtedly constitutes substantial misconduct that provided DOC with just cause to terminate her employment.
6/15/15	Suffolk Superior Court (Judge Muse)	1/9/14	Appointing Authority (upholding termination)	Ariana Rivera v. Department of Correction	D1-12-222	DALA (McConney)	Affirmed	<ul style="list-style-type: none"> The Commission did not err in denying the plaintiff's motion to disclose the identity of a confidential informant; The Commission had a substantial interest in reviewing probative evidence that was validly obtained through an administrative subpoena by an independent investigation agency.
6/22/15	Suffolk Superior Court (Judge MacLeod)	11/14/13	Appointing Authority (upholding termination)	Richard Everton v. Town of Falmouth	D1-12-175	Stein	Affirmed	<ul style="list-style-type: none"> The hearing officer and Commission's decisions are sound, especially in light of the heightened expectation attributed to police officers to behave themselves in accordance with the law and the public interest.
6/23/15	Suffolk Superior Court (Judge Lauriat)	5/29/14	Appointing Authority (upholding bypass)	Nicholas Felix v. City of Pittsfield	G1-13-58	Ittleman	Affirmed	<ul style="list-style-type: none"> There was substantial evidence to conclude that the plaintiff's application was incomplete; that he made inconsistent statements regarding his residence; and that his driving and credit history were legitimate factors to consider. Court did not rule on whether Commission improperly considered his "legitimate" exercise of his rights under G.L. c. 149, s. 52C.

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6/29/15	Suffolk Superior Court (Judge Ullman)	7/24/14	Appointing Authority (upholding bypass)	Joel Henderson v. City of Lynn	G1-13-1	DALA	Affirmed	<ul style="list-style-type: none"> The Commission expressly and appropriately relied on these factors [marijuana use and poor employment history] and expressly did not rely on the ... CORI information” “G.L. c. 151B, s. 4(9) [states that] it is unlawful to discriminate against a job applicant based upon either a violation of law in which no conviction resulted or a misdemeanor conviction where the date of conviction or completion of any term of incarceration, whichever is later, occurred at least five years prior to the job application date.”
6/30/15	Suffolk Superior Court (Judge Muse)	10/2/14	Appellant (overturning bypass)	Lencol Monteiro v. Boston Police Department	G1-14-77	Stein	Affirmed	<ul style="list-style-type: none"> Psychological Bypass
8/6/15	Middlesex Superior Court (Judge Budd)	12/19/13	Appointing Authority (upholding termination) Appellant (overturning suspension)	Edward McCormack v. State Police	D1-12-1308	Ittleman	Affirmed	<ul style="list-style-type: none"> “CSC’s authority to modify penalties is separate from and cumulative with its authority to affirm or reverse the action of the State Police. Massachusetts courts have traditionally treated a suspension as discipline imposed, not as a mere change in status prior to the imposition of actual discipline.”
9/21/15	Plymouth Superior Court (Judge Chin)	5/4/14	Appointing Authority (upholding termination)	Adam Levesque v. Town of Middleboro	D1-12-228	DALA	Remanded	<ul style="list-style-type: none"> Remanded for a determination of whether the Last Chance Agreement should be deemed binding and whether just cause exists independent of the Agreement to terminate Levesque.
10/6/15	Suffolk Superior Court	9/19/13	Appointing Authority (upholding bypass)	Christopher O’Rourke v. Boston Police Department	G1-13-57	Stein	Affirmed	<ul style="list-style-type: none"> “It is well established that an acquittal or a dismissal, in a criminal matter, does not preclude an administrative body from considering the facts that supported the criminal action, in a civil context, since criminal convictions require a higher burden of proof.