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EARL FANNION v. MASSACHUSETTS CIVIL SERVICE COMMISSION and
WORCESTER PUBLIC SCHOOLS

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Suffolk Superior Court
Civil Action No. 2013-3642

COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

Decision and Order on Plaintiff's Motion for Summary Judgment¹

The administrative record and the respective positions of the parties were reviewed in this matter. After this review, the court was unable to find that the agency's decision was based on an error of law, or that it was unsupported by substantial evidence, or that it was arbitrary and capricious, or that it was an abuse of discretion, for all the reasons stated in the Defendant Worcester Public Schools' Opposition to Plaintiff's Motion for Summary Judgment. As further explanation, certain facts and considerations are further discussed.

It is important to observe that the behavior at issue is an employee's comment to his supervisor that "I'd rather put a bullet through your head. It would be quicker."² It is commonly known that public safety, and particularly school shootings, are of primary concern throughout our school systems. It is also commonly known that any language with regard to shooting someone in a school setting is unacceptable.

In this case, the threatening words were directed at a supervisor who had disciplined the plaintiff. The plaintiff believed he was unfairly reprimanded and wanted the letter of reprimand removed from his file. The plaintiff did not follow the process for a grievance and his request was denied. The plaintiff and his supervisor did not have a relationship either socially or as friends that would suggest informal banter was appropriate. Moreover, the supervisor had heard the plaintiff make a similar statement about "putting a bullet in the head" of another department employee earlier in the year after the plaintiff had been asked to do a work related task.

Based on the above, as well as other findings of facts, the Civil Service Commission adopted the Recommended Decision of the DALA Magistrate, which affirmed the Worcester Public Schools termination of the plaintiff's employment by concluding:

"The Appointing Authority is correct in its contention that threats of violence, especially those involving references to bullets in the head, should be absolutely impermissible. The Appellant's insubordination toward Mr. Santangelo and his threat of violence are behaviors which amount to substantial misconduct which adversely impairs efficacy of public service. Mr. Santangelo was neither his friend nor his work peer. There was no room for back and forth "shop banter" between them at that time. The Appellant

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¹ This matter is a complaint for judicial review of an administrative agency decision pursuant to G.L.c.30A, §14 and G.L. c.31, §44. Therefore, the plaintiff's motion for summary judgment is resolved as a motion for judgment on the pleadings. The parties have limited their arguments to the administrative record and the court's review is limited to the administrative record.

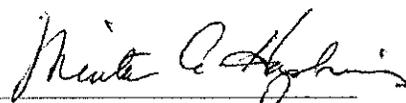
² Although there may be disagreement to the specific order of words, it is undisputed that the plaintiff told his supervisor, Micheal Santangelo, that he would rather put a bullet through his head.

demonstrated extremely poor judgment as he had in the past. He also demonstrated an ongoing tendency to resolve grievances and work conflicts through improper channels.”³

ORDER

For the reasons stated, the Plaintiff’s Motion for Summary Judgment is decided as Plaintiff’s Motion for Judgment on the Pleadings.

Therefore, it is **ORDERED** that **JUDGMENT shall enter for the defendants**. The decision of the Massachusetts Civil Service Commission upholding the decision of the Worcester Public Schools to terminate the employment of the plaintiff is **AFFIRMED**.


Merita A. Hopkins
Associate Justice

Dated: March 11, 2015

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³ The plaintiff received discipline in 2010 for holding a student outside a window to retrieve a tool. The plaintiff’s termination was not based on this event. It was considered for the limited purpose of demonstrating that the *present event* was an additional occasion wherein the plaintiff had demonstrated extremely poor judgment.