

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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COMMONWEALTH OF MASS  
CIVIL SERVICE COMMISSION

SUPERIOR COURT  
CIVIL ACTION  
NO. 2014-0574-F

MARIA ARAUJO

v.

LUIS S. SPENCER<sup>1</sup> & another<sup>2</sup>

**MEMORANDUM OF DECISION AND ORDER ON PLAINTIFF'S MOTION FOR  
JUDGMENT ON THE PLEADINGS**

The plaintiff, Maria Araujo ("Araujo"), appeals from a decision by the Massachusetts Civil Service Commission ("Commission") upholding the decision of the Massachusetts Department of Corrections ("DOC") to terminate Araujo's employment. For the following reasons, Araujo's Motion for Judgment on the Pleadings is **DENIED**.

**BACKGROUND**

The facts as revealed by the administrative record are as follows.

On October 4, 1998, the DOC appointed Araujo, a tenured civil service employee, to the position of corrections officer. In 2005, Araujo began working at the Boston Pre-Release Center ("BPRC") in Roslindale. Araujo continued to work at the BPRC until she was terminated in August 2011.

In 2009, Araujo met DL. DL was an inmate housed at the BPRC from April 2009 until he was released on parole on March 29, 2010. In early 2011, DL was taken back into custody after he violated the terms of his parole. Around the same time, DL reported that he and Araujo

<sup>1</sup>In his capacity as Commissioner of the Massachusetts Department of Correction.

<sup>2</sup>Massachusetts Civil Service Commission

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had been involved in a romantic relationship while he was out on parole. Although Araujo denied this allegation, the DOC initiated an investigation of DL's claim.

On May 28, 2011, the DOC concluded its investigation of Araujo, and determined that there was probable cause to believe that Araujo had violated numerous DOC rules and policies by engaging in ten acts of misconduct, including: (1) being "overly familiar" with and spending "excessive amounts of time" with DL during his incarceration at BPRC; (2) engaging in a romantic relationship with DL after his release from BPRC; (3) engaging in contact with DL's family and several other former inmates and/or parolees that were friends with DL; (4) not reporting her contact with DL to her Superintendent, DOC Department head or the Commissioner of Correction; (5) not reporting contact with other former inmates and/or parolees that Araujo met through DL to her "Superintendent, DOC Department head or [the] Commissioner of Correction;" (6) making "harassing" phone calls to DL's friends; (7) filing a false report with the Norwood Police Department; (8) failing to report law enforcement contact and/or court appearances while employed by the DOC; (9) refusing a direct order to be fingerprinted; and (10) being "insubordinate and uncooperative when interviewed by a Departmental Investigator in connection with the above-referenced matters;" and being "less than truthful when interviewed by a Departmental Investigator in connection with the above-referenced matters."

After a hearing held on June 29, 2011, a hearing officer designated by the Commissioner of Correction concluded that the DOC had substantiated all ten of the acts of misconduct it alleged against Araujo and that Araujo had violated the DOC rules and policies as charged. The Commissioner of Correction concurred with the hearing officer's findings, and by a letter dated August 19, 2011, ordered that the DOC terminate Araujo's employment immediately.

On August 25, 2011, Araujo appealed her termination to the Commission. In her appeal, Araujo argued that she was the victim of discrimination because she is a Hispanic female and the DOC had discharged her as the result of "fictitious allegations of contact with a former inmate." Pursuant to this appeal, the Commission held six days of evidentiary hearings between January and March 2012.

On January 23, 2014, the Commission affirmed the DOC's decision to terminate Araujo, finding that "[t]he preponderance of evidence shows that Ms. Araujo (1) engaged in an inappropriate relationship with a former DOC inmate over a period of many months; (2) she never reported this relationship to the DOC and, indeed, took steps to conceal it; and (3) was untruthful about her contacts with DL when questioned about it during the DOC investigation." The Commission held that even though the DOC failed to present evidence to substantiate any of the other misconduct it alleged Araujo had engaged in, the three substantiated offenses alone were sufficient to sustain the DOC's decision to terminate Araujo. The Commission stated that although Araujo had correctly pointed out "that not every DOC employee who has engaged in an inappropriate relationship with an inmate or former inmate has been terminated, the record of DOC's discipline of other employees clearly shows that termination is within the range of discipline that DOC has meted out in other cases . . . ."

## **DISCUSSION**

### **I. Standard**

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity. *Merisme v. Board of Appeals on Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989). The court is required to "give due weight to the experience, technical competence, and specialized knowledge of the agency, as well as the



discretionary authority conferred on it" by statute. G. L. c. 30A, § 14(7). See also *Kavaleski*, 463 Mass. at 689. The court may not substitute its own judgment for that of the agency nor may the court disturb the agency's findings of fact. *Guarino v. Dir. of Div. of Employment Sec.*, 393 Mass. 89, 92 (1984). The court's sole function "is to determine whether the [agency] applied correct legal principles in reaching its decision." See *id.*

The court may set aside or modify an agency's decision "if [it] conclude[s] that the substantial rights of any party may have been prejudiced by a decision that is based on an error of law, unsupported by substantial evidence, or otherwise not in accordance with the law." *Police Dept. of Boston v. Kavaleski*, 463 Mass. 680, 689 (2012). "'Substantial evidence' means 'such evidence as a reasonable mind might accept as adequate to support a conclusion.'" *Covell v. Department of Social Services*, 439 Mass. 766, 783 (2003), quoting G. L. c. 30A, § 1(6).

## II. Araujo's Appeal

General Laws chapter 31, § 43 allows the Commission to exercise its discretion to modify penalties imposed on civil service employees in appropriate circumstances. Araujo contends that the Commission improperly failed to exercise its discretion when it affirmed the DOC's decision to terminate her employment. According to Araujo, the Commission's decision "fail[ed] to account for the disparate disciplinary treatment" of corrections officers. While the Commission must exercise its discretion in a manner that furthers the legislative intent to promote disciplinary uniformity, Araujo has failed to demonstrate that the Commission's decision contravened that intent here. *Police Comm'r of Boston v. Civil Serv. Comm'n*, 39 Mass. App. Ct. 594, 600 (1995) (citations omitted).

In support of her argument that her termination constituted disparate treatment, Araujo cites four instances in which the DOC chose to suspend rather than terminate corrections officers

who engaged in inappropriate relationships with inmates. These examples, however, were considered by the Commission alongside nine additional instances where the DOC chose to terminate corrections officers who had engaged in inappropriate relationships with inmates. The nine additional examples provided ample support for the Commission's conclusion that Araujo's termination was "within the range of discipline" the DOC has previously imposed in comparable circumstances.

Araujo further argues that the Commission abused its discretion when it affirmed her termination after sustaining only three of the ten acts of misconduct alleged by the DOC. However, the Commission explicitly acknowledged this discrepancy and nonetheless found that termination was still a proper penalty after looking at the DOC's response in comparable cases in which the employee was also terminated. Moreover, 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. As a tenured civil service employee, the DOC may terminate Araujo for "just cause." G. L. c. 31, § 41. "Just cause" constitutes "substantial misconduct which adversely affects the public interest by impairing the efficiency of the public service." *Police Commr. of Boston*, 39 Mass. App Ct. at 599. The Commission found that Araujo "fabricated false explanations and alibis to keep [her relationship with DL] secret and falsely denied her behavior when confronted by the DOC. Araujo's deception undoubtedly constitutes "substantial misconduct" that provided the DOC just cause to terminate her employment.

Based on the foregoing, the court finds that the Commission properly declined to exercise its discretion to modify Araujo's penalty and that the Commission had just cause to terminate. Therefore, Araujo's Motion for Judgment on the Pleadings is **DENIED**.

ORDER

For the foregoing reasons, Aruajo's Motion for Judgment on the Pleadings is DENIED.

A handwritten signature in black ink, appearing to read 'Mary K. Ames', written over a horizontal line.

Mary K. Ames  
Justice of the Superior Court

Dated: May 20, 2015