

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**

100 Cambridge Street – Suite 200

Boston, MA 02114

617-979-1900

**LAWRENCE BATEMAN,**

*Appellant*

v.

**TOWN OF WINCHESTER,**

*Respondent*

Docket Number:

G2-25-090

Appearance for Appellant:

Lawrence Bateman, *Pro Se*<sup>1</sup>

Appearance for Respondent:

Michael Downey, Esq.  
Morgan, Brown & Joy  
28 State Street, 16<sup>th</sup> Floor  
Boston, MA 02109

Commissioner:

Shawn C. Dooley

**SUMMARY OF DECISION**

The Commission affirmed the Town of Winchester's decision to bypass a candidate for promotional appointment to the position of Fire Lieutenant based on overall interview performance and the candidate's inability to fully articulate the duties of a fire lieutenant in a scenario-based assessment.

**DECISION**

On April 3, 2025, the Appellant, Lawrence Bateman, acting pursuant to G.L. c. 31, § 2(b), appealed to the Civil Service Commission (Commission) from the decision of the Town of Winchester (Town) to bypass him for promotion to the position of full-time permanent Fire Lieutenant for the Winchester Fire Department (WFD). The Commission held a remote pre-

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<sup>1</sup> The Appellant was represented by Galen Gilbert, Esq. before the Commission but the Appellant decided to proceed without counsel after the hearing and Attorney Gilbert withdrew.

hearing conference on April 8, 2025. On May 28, 2025, I conducted an in-person full hearing at the offices of the Commission in Boston. The hearing was recorded via Webex.<sup>2</sup> Both parties filed proposed decisions. For the reasons set forth below, Mr. Bateman's appeal is *denied*.

## **FINDINGS OF FACT**

The Appellant entered into evidence four exhibits (App. Exhs. 1-4) and the Town of Winchester entered six exhibits (Resp. Exhs. 1-6, inclusive of Exhs. 3(a)-(c) and 4(a)-(c)). Based on the documents entered into evidence and the testimony of the following witnesses:

*Called by the Town:*

- Steven Osborne, Fire Chief, Winchester Fire Department (WFD)
- Kenneth Temple, Fire Captain, WFD

*Called by the Appellant:*

- Lawrence Bateman, Appellant

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes the following facts:

1. The Appellant, Lawrence Bateman, is employed by the WFD as a full-time permanent firefighter and he has held that position since March 2017. (*App. Exhs. 2-3; Testimony of Appellant*)

2. Since March 2<sup>nd</sup>, 2025, the Appellant has been serving as a temporary fire lieutenant. (*Testimony of Appellant*)

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<sup>2</sup> The Commission sent the parties a copy of the recording. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to use the recording to supply the court with a written transcript of the hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion.

3. On March 25, 2023, Mr. Bateman took the civil service promotional examination for Fire Lieutenant administered by the Massachusetts Human Resources Division (HRD) and received a score of 78. *(Stipulated Fact)*

4. On July 31, 2023, HRD sent the eligible list of candidates for Winchester Fire Lieutenant to the Town. *(Stipulated Fact)*

*Prior Bypass for Temporary Fire Lieutenant Position*

5. On August 10, 2023, the Town established Departmental Promotional Certification #08789 to fill three *Temporary* Fire Lieutenant vacancies caused by injuries. Mr. Bateman was ranked first on the list and was one of five candidates interviewed for the temporary positions. *(Stipulated Fact)*

6. An interview panel was set up to interview candidates to fill the three temporary lieutenant positions. This panel was comprised of Winchester Fire Chief Steven Osborne, Fire Captain Kenneth Temple (Captain Temple), Fire Lieutenant Tim Coss (Lt. Coss), and Fire Lieutenant Jeff Russo (Lt. Russo). *(Testimony of Chief Osborne)*

7. The interview panel determined that the Appellant was not qualified for promotion to lieutenant at that time and the Town bypassed him for promotion to temporary fire lieutenant at that point. *(Testimony of Chief Osborne)*

8. Following this prior bypass, Chief Osborne met with the Appellant to notify him of the bypass, explain the reasoning for the decision, and make recommendations on how he could improve his chances during the next round of promotions. This discussion centered around his answers to the interview questions and his performance on the “scene assessment” component of the interview. One of the recommendations that the Chief made was that the Appellant enroll in

courses such as Fire Officer I and II, as these are designed to prepare firefighters for advancement to officer roles. (*Testimony of Chief Osborne*)

9. The Appellant appealed this temporary bypass to the Commission. By agreement of the parties, that appeal was mutually resolved with the Commission issuing an order requiring the Town to comply with all civil service statutes and rules regarding promotions, including the timely issuance of written reasons for bypass. (*Undisputed Fact*)

#### *Permanent Fire Lieutenant Promotions*

10. In January 2025, Chief Osborne initiated the process to fill three permanent fire lieutenant positions. (*Testimony of Chief Osborne*)

11. As the 2023 eligible list was still in place, the Appellant remained first among those willing to accept promotional appointment for the permanent promotions. (*Testimony of Chief Osborne*)

12. The interview panel was the same as in 2023, consisting of Chief Osborne, Captain Temple, Lt. Coss, and Lt. Russo. Interviews occurred on January 15, 2025, during which all candidates were asked the same series of questions. (*Resp. Exhs. 3(a) – (c); Testimony of Chief Osborne*)

13. None of the interviews were audio or video recorded; but each interviewer took notes on each candidate. (*Testimony of Chief Osborne*)

14. One of the questions asked candidates to describe a route of travel to get to a particular house within the town. The Appellant was the only candidate not to know the proper route in order to best respond to the address provided. (*Testimony of Chief Osborne*)

15. Also, Captain Temple presented a “fireground scenario” to the candidates. Specifically,

Captain Temple told the candidates to assume the role of a fire lieutenant, acting as the ranking officer due to the unavailability of the chief and shift commander (typically, a captain). Captain Temple then informed the candidates that they received reports of a fire at 59 Harvard Street, with a description of “heavy smoke and fire showing from the 2<sup>nd</sup> floor, Bravo<sup>3</sup> side” of the building. Captain Temple asked the candidates to provide their “initial size-up” and explain their actions and assignments. In addition to his explanation, Captain Temple provided the candidates with pictures of 59 Harvard Street.<sup>4</sup> (*Resp. Exhs. 4(a) – (c); Testimony of Captain Temple*)

16. The Appellant’s response was limited to stating that he would contact dispatch and have them strike a second alarm and then take a handline into the building to attack the fire on the second floor. (*Testimony of Chief Osborne & Captain Temple*)

17. While the Appellant’s answer was not incorrect, the panelists found that it was significantly lacking many aspects that would be expected to be articulated of a fire lieutenant in this specific scenario. The most glaring omission was his failure to address life safety / search and rescue given that this was a multi-family residential building. The other candidates were able to provide a much more comprehensive and complete approach to the role of lieutenant in this scenario. (*Testimony of Chief Osborne & Captain Temple*)

18. The Appellant was unable to properly articulate what he would do in this scenario as incident commander. He did not address search and rescue until prompted, did not establish procedures for water supply, staging other companies, did not address overhead wires or the need

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<sup>3</sup> When looking at the front of the building, the “Bravo” side of the building is on the left.

<sup>4</sup> Due to connectivity issues, efforts to allow candidates to use Google Earth failed. Instead, all candidates were shown the same two pictures, depicting the front of the building and the “Delta” side, which is on the right side of the building when looking at the front door. Nonetheless, Mr. Bateman acknowledged that his response would have been the same even if he had seen additional pictures.

for ground ladders, did not designate a RIT<sup>5</sup> team, and did not do a 360-degree scene assessment.  
(*Testimony of Captain Temple*)

19. After completing the interview with the candidates, the panel concluded that the Appellant was not qualified for promotion to fire lieutenant. As a result, Chief Osborne recommended that he be bypassed. The recommendation was approved by the Town Manager.  
(*Testimony of Chief Osborne & Captain Temple*)

20. On March 2, 2025, Chief Osborne promoted the Appellant to a vacant *temporary* lieutenant position. (*Testimony of Appellant and Chief Osborne*)

21. On March 27, 2025, Chief Osborne sent the Appellant a letter stating that he had been bypassed for promotion to permanent fire lieutenant within the WFD. The reasons stated for the bypass decision were that during the fireground scenario, the Appellant was “unable to demonstrate the necessary tasks to be performed by each arriving apparatus upon their initial arrival.” (*Resp. Exh. 5*)

## **APPLICABLE CIVIL SERVICE LAW**

The core mission of Massachusetts civil service law is to enforce “basic merit principles” for “recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills” and “assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.” G.L. c. 31, § 1. *See, e.g., Massachusetts Ass’n of Minority Law Enforcement Officers v. Abban*, 434 Mass. 256, 259 (2001); *MacHenry v. Civil Serv. Comm’n*, 40 Mass. App. Ct. 632, 635 (1995), *rev. den.*, 423 Mass. 1106 (1996).

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<sup>5</sup> RIT stands for Rapid Intervention Team. This is a team of firefighters that are on site and act as standby rescuers in case a firefighter needs rescuing while inside an active structure fire or other dangerous scenario. Ideally, there will always be a RIT team assigned when firefighters are inside a structure fire.

The governing statute, G.L. c. 31, gives the Commission's de novo review "broad scope to evaluate the legal basis of the appointing authority's action" and it is not necessary that the Commission find that the appointing authority acted "arbitrarily and capriciously." *City of Cambridge v. Civil Service Comm'n*, 43 Mass. App. Ct. 300, 303-305, *rev. den.*, 428 Mass. 1102 (1997). The commission ". . . cannot substitute its judgment about a valid exercise of discretion based on merit or policy considerations by an appointing authority" but, when there are "overtones of political control or objectives unrelated to merit standards or neutrally applied public policy, then the occasion is appropriate for intervention by the commission." *Id.* See also *Town of Brookline v. Alston*, 487 Mass. 278 (2021) (analyzing broad scope of the Commission's jurisdiction to enforce basic merit principles under civil service law).

Thus, when "selecting public employees of skill and integrity, appointing authorities are invested with broad discretion." *City of Cambridge v. Civil Service Commission*, 43 Mass. App. Ct. 300, 305, 682 N.E.2d 923, 926(1997). In fact, there is a presumption that appointing authorities have acted in good faith and with honesty. *Mayor of Revere v. Civil Service Comm'n*, 31 Mass. App. Ct. 315, 321 n.11, 577 N.E.2d 325, 329 n.11 (1991). Nonetheless, when choosing to bypass a candidate, the appointing authority must show that it was "done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law." *Selectman of Wakefield v. Judge of First Dist. Court of E. Middlesex*, 262 Mass. 477, 482, 160 N.E. 427 (1928). A bypass will not be upheld when "the reasons offered by the appointing authority were untrue, apply equally to the higher ranking, bypassed candidate, are incapable of substantiation, or are a pretext for other impermissible reasons." *Vitale v City of Beverly*, 24 MCSR 363, 365 (Mass. Civ. Serv. Comm'n., July 1, 2011), quoting *Borelli v. MBTA*, 1 MCSR 6 (Mass. Civ. Serv. Comm'n., 1988).

“Poor interview performance can be a sufficient reason for a bypass.” *Alden v. Town of Plymouth*, G2-14-217 (Mass. Civ. Serv. Comm’n., November 12, 2015), citing *MacMillan v. Town of Plymouth*, 21 MCSR 446, 452 (Mass. Civ. Serv. Comm’n., Aug. 12, 2008) (candidate for promotion to police sergeant bypassed because, in an interview, he was “evasive, unsure, weak, immature, and lacking in command presence) and *Bariamis v. Town of Tewksbury*, 20 MCRS 47, 50 (Mass. Civ. Serv. Comm’n., Jan. 30, 2006) (candidate for original appointment as police officer bypassed because of negative comments made during interview).

The candidate’s handling of questions at a hearing may be considered when evaluating his interview performance. See *Brown v. Town of Duxbury*, 19 MCSR 407 (Mass. Civ. Serv. 15 Comm’n., Dec. 1, 2006) (Commission thought, as did the interview panel, that applicant for police sergeant position showed that he lacked sufficient experience as a police officer to warrant promotion); *Wooster v. Division of Employment and Training*, 16 MCSR 43 (Mass. Civ. Serv. Comm’n., Sept. 5, 2003) (clerk applicant gave impression of being unfocused to both interview panel and the Commission); and *Barber v. Dept. of Mental Health*, 6 MCSR 132 (Mass. Civ. Serv. Comm’n., June 16, 1993) (interview panel and Commission thought mental health case manager applicant’s answers lacked coherence).

## **ANALYSIS**

The Town of Winchester established by a preponderance of the evidence that it had reasonable justification to bypass the Appellant for promotion to permanent fire lieutenant due to his poor interview performance. Specifically, the Appellant was unable to demonstrate basic fireground knowledge and skills required of a lieutenant when responding to the scenario portion of the interview.



I gave significant weight to the conclusions of the interview panel as it was composed of professional firefighters who are actively serving in the WFD. Their expertise and ability to understand the technical requirements needed to serve as an officer in charge of a fire scene is well documented and there was no evidence of personal or political bias amongst any of the panelists. The fact that this was a nearly identical hiring process to the previous one that was utilized for selecting the temporary lieutenants lends credibility to this being the Department's standard promotional protocol. I found it surprising that the Appellant, knowing his responses to the fire scenario portion of the interview was a significant reason for his previous bypass, did not better prepare for the interview for permanent promotion.

I found both Chief Osborne and Captain Temple to be credible in their assessment of the Appellant and they did not appear to hold any bias or animosity toward him. Their rationale supporting the bypass was well articulated and the assessment / interview portions unfolded consistently throughout the hiring process for all candidates.

The Appellant brought up several other issues during the hearing that he felt demonstrated bias against him by the Chief. These include three instances of random drug testing and the issuance of two written warnings in his current position as temporary lieutenant. I considered this as part of my review here but found nothing in the testimony or in the record that would lead one to believe that these issues showed bias against the Appellant. Further, these incidents occurred after the decision to bypass the Appellant.

The Appellant argues that his promotion to temporary lieutenant undermines the Town's position that he is not qualified or prepared for promotion to permanent lieutenant. When questioned as to this seemingly contradictory move, the Chief explained that while the Appellant was not as strong as the three firefighters that were promoted ahead of him, he was a

significantly stronger candidate than the other person who was eligible for promotion. The Chief further addressed the shortcomings of the Appellant by stating that he had directed Captain Temple, WFD's training officer, to work with the Appellant and he, in turn, was to direct the officers on the Appellant's shift to watch over him and to help bring him up to speed as an officer.

It is unfortunate, and understandably frustrating, that the Appellant has been trying to get into the Fire Officer I course for two years and has been unsuccessful due to the lack of course availability. This was a recommendation of Chief Osborne after the initial bypass and I give credit to the Appellant for his efforts to gain this accreditation. Currently there remains an extremely long wait list for this course, with preference given to the host community's firefighters, leaving minimal seats for those employed by other departments. While there is an ability to complete the certification through a self-study option, I am unaware if the Appellant realized this was an avenue available to him.

Finally, while the Town, through witness and documentary evidence, has shown in this particular appeal that the Appellant's interview performance provided reasonable justification to bypass him, the Town is hereby ordered, on an ongoing basis, to comply with the longstanding directive of the Commission that all interviews for civil service positions should be audio and/or video recorded and the recording preserved for admission into evidence at any future Civil Service Commission proceeding.

In summary, I find there to be no instances of political or personal bias, that the selection process was fair, upheld the standards of basic merit principles, and the Town had reasonable justification for bypassing the Appellant.

## CONCLUSION

For all the above-stated reasons, the appeal of Lawrence Bateman, filed under docket number G2-25-090, is hereby *denied*.

Civil Service Commission

/s/ Shawn C. Dooley  
Shawn C. Dooley  
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney, & Stein, Commissioners) on September 18, 2025.

Either party may file a motion for reconsideration within ten days of receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:  
Lawrence Bateman (Appellant)  
Michael Downey, Esq. (for Respondent)