

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

**CHRISTOPHER
BENEVENTO,**

Appellant

v.

**SPRINGFIELD FIRE
DEPARTMENT,**

Respondent

Case No.: G1-11-69

PROCEDURAL ORDER

1. On July 26, 2001, the Civil Service Commission (Commission) issued a decision upholding the City of Springfield Fire Department's (Fire Department) bypass of Christopher Benevento (Appellant) for original appointment as a firefighter. (See Benevento v. Springfield, 14 MCSR 123 (2001)).
2. In its 2001 decision, the Commission determined that the Fire Department had reasonable justification to bypass the Appellant based on the Appellant's two (2) felony convictions in 1983 (breaking and entering in the nighttime with the intent to commit a felony and receiving stolen property over \$100).
3. In 2008, the Appellant took and passed another civil service examination for firefighter in Springfield which was administered by the state's Human Resources Division (HRD).
4. As a result of the Appellant's score and his status as a disabled veteran, his name appeared at or near the top of an eligible list of candidates for firefighter in Springfield.
5. On April 12, 2010, HRD, at the request of the Fire Department, forwarded Certification No. 206437 to the Fire Department with the names of fifty (50) individuals from whom the Fire Department was to choose six (6) of the first thirteen (13) highest willing to accept appointment as permanent full-time firefighter for six (6) vacancies, proscribed by the so-called "2n + 1" rule.
6. Thirty-eight (38) of the individuals on Certification No. 206437, dated April 12, 2010, including the Appellant, signed the Certification indicating that they were willing to accept appointment if selected. The Appellant's name appeared fourth on the Certification.¹

¹ It appears that the name of at least one other individual (Jason Ramos) signed this first Certification but, due to what the Fire Department attributes to an administrative error, was not considered for appointment. (See Ramos v. Springfield Fire Department, CSC Case No. E-11-80 (2011)). At a pre-hearing conference that followed on the

7. For reasons unknown to the Commission at this time, the Fire Department apparently requested additional names from HRD for the six (6) vacancies.
8. On April 28, 2010, HRD forwarded an additional seventy-four (74) names of candidates willing to accept appointment, all of whom were ranked below the thirty-eight (38) individuals willing to accept appointment from the Certification issued by HRD on April 12, 2010. Fifty-seven (57) of these individuals signed the Certification as willing to accept appointment if selected.
9. One of the individuals whose name appeared on the second set of names was the son of a Deputy Fire Chief who was involved in reviewing those candidates whose name appeared on the first Certification issued to the City on April 12, 2010.
10. The Deputy Fire Chief reviewed the Appellant's application and recommended to the Fire Commissioner that he not be appointed.
11. On September 1, 2010, the Fire Department notified HRD that it was bypassing the Appellant for the same reasons proffered in 2001 – the Appellant's two felony convictions in 1983.
12. On February 11, 2011, HRD notified the Appellant that it had accepted the reasons for bypassing him and informed him of his right to file an appeal with the Commission.
13. The Deputy Fire Chief's son, a lower-ranked candidate, who came from the second set of 74 names, was selected for appointment.
14. On March 1, 2011, the Appellant, who has been employed by the City of Springfield in a different capacity for many years, filed a bypass appeal with the Commission. As part of his bypass appeal, the Appellant also raised procedural issues on his appeal form, including a complaint that the selected candidates were allegedly appointed on January 3, 2011, more than a month prior to HRD accepting the reasons for bypass.
15. On March 23, 2011, a pre-hearing conference was held by the Commission at the Springfield State Building in Springfield. HRD was not in attendance at the pre-hearing and none of the traditional information provided to the Commission from HRD was available (i.e. – eligible list, Certifications, etc.)
16. At the outset of the pre-hearing, the Appellant objected to the presence of the Deputy Fire Chief as his son had been appointed as part of the same hiring process.
17. The Deputy Fire Chief confirmed that his son, whose name appeared on the second list of names sent to the Fire Department on April 28, 2010, was selected for appointment during the same hiring cycle. The Deputy Fire Chief stated that he participated in the initial phase of the selection process only (including that of the Appellant) because his son's name was not on the first list of names sent to the Fire Department and it was not anticipated that any additional names would be requested from HRD at the outset of the hiring process.

same day, the Fire Department asked that the error be corrected by placing his name at the top of the next Certification.)

18. At my request, the Deputy Fire Chief excused himself and did not participate in the remainder of the proceedings.
19. When the pre-hearing resumed, it was apparent that additional information would be needed from both the Fire Department and HRD. Thus, a status conference has been scheduled for Wednesday, April 27, 2011 at 10:00 A.M. in Room 305 of the Springfield State Building in Springfield, MA.
20. On or before April 15, 2011, in preparation for this status conference, the Springfield Fire Department and HRD are hereby ordered to produce and deliver to the offices of the Civil Service Commission; One Ashburton Place, Room 503, Boston, Massachusetts 02108, the following records in their possession, custody or control:

For the period January 1, 2010 to the present, any emails, memos, letters or other records in their custody, possession and/or control regarding the review and/or selection process of firefighters by the Springfield Fire Department in 2010 or 2011. Records include all means by which information may be stored, including, but not limited to eligible lists, Certifications, other written or printed materials, photocopies, electronic or magnetic recordings, and computer files, tapes and disks, including emails and landline phone and cell phone bills; notes taken by any of the interview panelists regarding the candidates and/or any communication received regarding the candidates from individuals who were not members of the interview panel.

21. Based on the information received, the Commission maintains its discretion to consider this appeal and the issues raised as part of this appeal under G.L. c. 31, §§ 2(a), 2(b), 73 and 74.

Civil Service Commission



Christopher C. Bowman
Chairman
March 24, 2011

Notice to:
Christopher Benevento (Appellant)
Jeffrey Krok, Esq. (for Appointing Authority)
John Marra, Esq. (HRD)