

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

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

JOHN R. BERNARD,
Appellant

v.

G2-05-361

CITY OF LAWRENCE,
Respondent

Appellant's Attorney:

Pro Se
John R. Bernard
P.O. Box 3194
Andover, MA 01810

Respondent's Attorney:

James M. Bowers, Esq.
City of Lawrence
200 Common Street
City Hall: Suite 306
Lawrence, MA 01840

Commissioner:

Donald R. Marquis

DECISION ON RESPONDENT'S MOTION TO DISMISS

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant, John R. Bernard (hereafter "Bernard" or Appellant") appealed the decision of the Respondent, the City of Lawrence (hereafter "Appointing Authority", or "City") bypassing him for promotional appointment to the position of sergeant in the Lawrence Police Department. The City subsequently filed a Motion to Dismiss the appeal.

The Commission hereby dismisses the Appellant's appeal as there was no bypass in this case. At the time of the promotional appointment for the position of sergeant, the Appointing Authority, as well as the state's Human Resource Division, was under an Order received from the Essex County Superior Court, J. Riley presiding, to promote

Officer Shawn Quaglietta to the position of sergeant. (Order attached) In compliance with the Order, the Human Resources Division placed Officer Quaglietta at the top of the list for which the Appellant claimed he was bypassed, thus bumping the Appellant in this case to the second position on the promotional list. The Appointing Authority subsequently promoted Officer Quaglietta to the position of sergeant. As such, there was no bypass as defined by Chapter 31.

Further, the Appellant in this case was, in any event, promoted to the rank of sergeant by the Appointing Authority on March 20, 2006.

As there was no bypass in this case, the Appellant's bypass appeal under Docket No. G2-05-361 is hereby *dismissed*.

Civil Service Commission

Donald R. Marquis, Commissioner

By vote of the Civil Service Commission (Goldblatt, Chairman; Bowman, Guerin, Marquis and Taylor, Commissioners) on January 11, 2007.

A true record. Attest:

Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the commission's order or decision.

Notice:

John R. Bernard

James M. Bowers, Esq.

Martha O'Connor, Esq. (HRD)

Attachment