

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

RE:

Tracking Number: I-18-052

Request by: Randolph Blake for the Commission to initiate an investigation regarding the Springfield Fire Department

Appearance for Petitioner:

Arnold Lizana III, Esq.
1175 Peachtree Street NE, 10th Floor
Atlanta, GA 30361

Appearance for Springfield Fire Department:

Maurice M. Cahillane, Esq.
City of Springfield
36 Court Street, Room 05
Springfield, MA 01103

Commissioner:

Christopher C. Bowman

RESPONSE TO REQUEST FOR INVESTIGATION

1. On March 16, 2018, the Petitioner, Randolph Blake (Lt. Blake), a lieutenant in the City of Springfield (City)'s Fire Department (SFD), filed a petition with the Civil Service Commission (Commission), asking the Commission to initiate an investigation under G.L. c. 31, s. 2(a) to review: whether the SFD violated his rights under the Fourteenth Amendment of the Constitution and failed to abide by basic merit principles in a recent promotional process for Fire Captain by allegedly: a) failing to issue "request for promotional evaluation forms" referenced in a collective bargaining agreement (CBA); b) failing to administer drug tests; and c) failing to enforce a local ordinance related to residency requirements. Further, the Petitioner asks the Commission and/or the state's Human Resources Division (HRD) to review the SFD's decision to return two (2) employees to civil service positions from a non-civil service position.
2. On May 9, 2018, I held a show cause conference at the Springfield State Building which was attended by the Petitioner, his counsel, counsel for the SFD and counsel for HRD (via telephone).
3. By agreement of the parties, the SFD and HRD had thirty (30) days to file a response to the Petition regarding whether the Commission should initiate an investigation; and the Petitioner had three (3) weeks thereafter to file a reply.

4. As part of the filings, the SFD was required to provide a status update on any related judicial and/or other proceedings related to the issues raised in this petition; and the SFD had the opportunity to address whether: a) candidates for promotion are required under the CBA to undergo drug testing; and b) candidate(s) recently promoted to Fire Captain underwent drug screening.
5. HRD, the City and the Petitioner submitted their respective position statements.

Applicable Civil Service Law and Rules & Final Response

G.L. c. 31, § 2(a) allows the Commission to conduct investigations. This statute confers significant discretion upon the Commission in terms of what response and to what extent, if at all, an investigation is appropriate. See Boston Police Patrolmen's Association et al v. Civ. Serv. Comm'n, No. 2006-4617, Suffolk Superior Court (2007). See also Erickson v. Civ. Serv. Comm'n & others, No. 2013-00639-D, Suffolk Superior Court (2014). The Commission exercises this discretion, however, "sparingly". See Richards v. Department of Transitional Assistance, 24 MCSR 315 (2011).

After careful review and consideration of the entire record in this matter, including the submissions of HRD, the Petitioner and the City, I have concluded that an investigation is not warranted and I recommend that the Commission not exercise its discretion to initiate such an investigation under G.L. c. 31, § 2(a).

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By vote on April 25, 2019, the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) voted to accept the recommendation of Commissioner Bowman; an investigation will not be initiated.

Notice to:
Arnold Lizanna III, Esq. (for Petitioner)
Maurice Cahillane, Esq. (for Springfield Fire Department)
Melissa Thomson, Esq. (HRD)