

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200

Boston, MA 02114

(617) 979-1900

KERRI BOMIL,

Appellant

v.

CITY OF LOWELL,

Respondent

Docket Number:

D-24-042

Appearance for Appellant:

Joseph P. Kittredge, Esq.

Lorena Galvez, Esq.

Rafanelli & Kittredge, P.C

1 Keefe Road

Acton, MA 01720

Appearance for Respondent:

Garrett Beaulieu, Assistant City Solicitor

City of Lowell Law Department

375 Merrimack Street, 3rd Floor

Lowell, MA 01852

Commissioner:

Angela C. McConney¹

SUMMARY OF DECISION

The Commission affirmed the decision of the City of Lowell to suspend a police officer for three days, as the officer's interactions with a fellow officer constituted a violation of Lowell Police Department Rules related to civility and conduct unbecoming a police officer.

DECISION

The Appellant, Kerri Bomil (Ms. Bomil), acting pursuant to G.L. c. 31, §§ 41 and 43, timely appealed to the Civil Service Commission (Commission) contesting the April 2, 2024

¹ The Commission acknowledges the assistance of intern David Tuan in the drafting of this decision.

decision of the City of Lowell (City) to impose a three-day unpaid suspension.

The Commission held a remote pre-hearing conference on April 23, 2024. I held two days of evidentiary hearing on September 9 and November 18, 2024 at Lowell City Hall, located at 375 Merrimack Street, Lowell, MA 01852.²

The hearing was digitally recorded and a link provided to the parties.³ The parties submitted post-hearing briefs on January 10, 2025, whereupon the administrative record closed.

FINDINGS OF FACT:

I admitted exhibits (Exhibits 1-17) into evidence. Exhibit 6 was admitted over the Appellant's objection. I admitted the appeal form as Exhibit 18. Based on the documents submitted and the testimony of the following witnesses:

Called by the City:

- Lieutenant Raymond Cormier, Lowell Police Department
- Officer Emaly Bouasri, Lowell Police Department
- Officer Christine Larocque, Lowell Police Department
- Officer Timothy Whalen, Lowell Police Department⁴
- Officer Aramis Velez, Lowell Police Department
- Superintendent Greg Hudon, Lowell Police Department

Called by the Appellant:

- Officer Kerri Bomil, Appellant
- Officer Daniel Brito, Lowell Police Department

and taking administrative notice of all pleadings filed in the case, pertinent rules, statutes,

² The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. § 1.01 (formal rules), apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

³ Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal is obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by substantial evidence, arbitrary or capricious, or an abuse of discretion. In such cases, the plaintiff in the judicial appeal must transcribe the transcript from the Commission's official recording.

⁴ Officer Whalen was on the witness list of both parties.

regulations, case law and policies, and drawing reasonable inferences from the credible evidence, I make the following findings of fact:

Background

1. Kerri Bomil has been employed as a full-time police officer for the Lowell Police Department (Department or LPD) since June 2, 2014. (Stipulated Facts; Testimony of Appellant)

2. Prior to the incident which is the subject of this appeal, Ms. Bomil has no prior discipline. (Testimony of Appellant)

3. Ms. Bomil holds a bachelor's degree in criminal justice with a minor in Spanish and sociology and a master's degree in criminal justice from the UMass Lowell. She has also earned certificates in informatics and leadership and policy. (Testimony of Appellant)

4. Prior to being employed by the Lowell Police Department, Ms. Bomil was a campus police officer at UMass Lowell and then a municipal police officer for the Town of Bolton. (Testimony of Appellant)

5. In addition to her work as a detective in the Lowell Police Department's Criminal Bureau, Ms. Bomil was a Municipal Police Training Committee instructor at the police academy from 2016 to 2018. She also taught criminal justice statistics as a UMass adjunct professor from January 2012 to May 2012. (Testimony of Appellant)

6. Ms. Bomil spearheaded a boxing fundraising charitable event, Punches for Parkinsons, with support from Lowell Police Superintendent Greg Hudon and her fellow officers. (R. Exhibit 2; Testimony of Appellant)

7. Ms. Bomil had been friends with fellow officers, including Emaly Bouasri, but her relationship with Bouasri and others eventually broke down. (Testimony of Appellant)

8. On December 15, 2023, Ms. Bomil was out on injured leave because of a work-related injury that she sustained on August 5, 2023. (Testimony of Appellant)

December 15, 2023, Incident

9. On December 15, 2023, the Department held a Christmas party for the dayshift at Mount Pleasant Golf Course in Lowell, MA. (Exhibit 1; Testimony of Appellant)

10. The party was attended by LPD officers, including Ms. Bomil and civilians. (Testimony of Bouasri, Testimony of Larocque)

11. During a party raffle, Officer Bouasri won a television set. (Testimony of Bouasri)

12. Due to its size, Officer Bouasri asked Officer Aramis Velez to help her carry the television to her vehicle in the parking lot. (Exhibit 1; Testimony of Bouasri, Testimony of Velez)

13. After Officer Bouasri and Officer Velez placed the television in the vehicle, Officer Velez returned to the party. Ms. Bouasri moved her car closer to the door of the party venue and waited to give Officer Christine Larocque a ride home. (Exhibits 1, 8 and 10; Testimony of Bouasri)

14. As she waited, Officer Bouasri retrieved a pair of shoes from the back of the car. She then sat in the driver's seat with the driver's door open in order to change her shoes. (Exhibit 8; Testimony of Bouasri)

15. While Officer Bouasri was changing her shoes, Ms. Bomil exited the building with Officer Larocque. Officer Bouasri overheard Ms. Bomil yelling crude profanities, such as "they're c**ts," "whores" and other similar terms such as "nasty girls." Officer Bouasri also heard Ms. Bomil say words to the effect of "I don't even know why you're friends with them."

(Testimony of Bouasri)

16. Officer Bouasri, believing that the profanities were directed at her, yelled, “Keep talking shit,” “Who are you calling a whore,” and “If you’re going to say something say it to my face.” (Testimony of Bouasri, Testimony of Larocque, Testimony of Velez)

17. Ms. Bomil then ran from the door of the venue toward Officer Bouasri’s vehicle, chased by Officer Larocque. (Exhibits 8 and 10; Testimony of Bouasri, Testimony of Larocque)

18. Officer Bouasri, still wearing only one shoe, stood up and put her hands in a defensive stance as Ms. Bomil approached. (Exhibit 8; Testimony of Bouasri)

19. Officer Larocque caught up to Ms. Bomil and stepped between her and Officer Bouasri. (Exhibit 8; Testimony of Bouasri, Testimony of Larocque)

20. Two other officers approached and restrained Ms. Bomil, propelling her toward her own vehicle. Ms. Bomil resisted their efforts, continued yelling obscenities, and fell to the ground five times. (Exhibits 8-10; Testimony of Appellant)

21. Officer Bouasri responded, “Oh I’m the s**t.” (Testimony of Bouasri)

22. Party attendees – including civilians – gawked at the interaction in the parking lot as they arrived or departed from the party. Vehicles were prevented from moving freely throughout the parking lot. (Exhibits 4 and 8)

23. Two officers placed Ms. Bomil in her motor vehicle, and one of them drove Ms. Bomil away from the scene. (Exhibit 1)

24. The entire incident was recorded by the golf club’s surveillance video. (Exhibits 8-10)

25. Throughout the incident, Officer Bouasri did not move past the front of her vehicle, or towards the Appellant. (Exhibit 8; Testimony of Bouasri, Testimony of Velez)

City of Lowell Disciplinary Process

26. Superintendent Greg Hudon was appointed to that position on May 1, 2023. Before this matter, he had been involved in less than five disciplinary cases. (Testimony of Hudon)

27. Cpt. David Peaslee is the Commanding Officer in charge of the Department's Internal Affairs Division (IAD). Lt. Raymond Cormier is the officer in charge of the Professional Standards Division. (Testimony of Cormier)

28. On December 18, 2023, Cpt. Peaslee informed Lt. Cormier that Officers Bouasri and another officer wanted to file complaints against Ms. Bomil regarding the December 15, 2023 off-duty incident. Lt. Cormier and Cpt. Peaslee interviewed the officers separately in the Professional Standards office at the police station. They said that "over the past several months, they have been the target of disparaging remarks, gossip and intimidation by Det. Bomil," with these actions culminating in the Mt. Pleasant parking lot confrontation. (Testimony of Cormier)

29. Lt. Cormier opened an investigation, docketed as Internal Complaint 2023-30J, and conducted recorded interviews of the witnesses. (Exhibit 1; Testimony of Cormier)

30. After reviewing the witnesses' statements and the evidence, Lt. Cormier issued a report on February 8, 2024. In the report, Lt. Cormier reported his findings that Ms. Bomil had violated three Department rules and regulations: Section J. Prohibited Conduct, subsection #1, Abusive Treatment; Section H. Required Conduct, subsection #6, Civility; and Section J. Prohibited Conduct, subsection #4. (Exhibit 2; Testimony of Appellant)

31. Section J. Prohibited Conduct, subsection #1, Abusive Treatment provides, "Officers and employees will not use any indecent, profane, or unnecessarily harsh language nor abuse the dignity of any citizen or fellow officer or employee." (Exhibits 1 and 7)

32. Section H. Required Conduct, subsection #6, Civility provides, “All officers and employees shall be civil, orderly diligent, discrete, courteous, and patient as a reasonable person is expected to be in any situation and will not engage in any physical altercation, or otherwise, whether on duty or not, with any officer or employee of the Department.” (Exhibits 1 and 7)

33. Section J. prohibited Conduct, subsection #4, conduct Unbecoming an Officer provides, “Conduct unbecoming an officer shall include that which brings the Department into disrepute, or reflects discredit upon the officer as a member of the Department, or that which impairs the operation or efficiency of the Department and/or officer.” (Exhibits 1 and 7)

34. Lt. Cormier submitted his report and the evidence to Supt. Hudon. (Testimony of Cormier)

35. Supt. Hudon reviewed Lt. Cormier’s report and the evidence. After deliberating with his Deputies, Supt. Hudon issued a three-day suspension to Ms. Bomil. (Exhibit 2; Testimony of Hudon)

36. Supt. Hudon is a believer in corrective action, in proportion to the alleged misconduct. Supt. Hudon was appalled at Ms. Bomil’s behavior at the December 15, 2023 Department event, which did not portray the Department in good light. (Testimony of Hudon)

37. Supt. Hudon was supportive of Ms. Bomil’s career and her charitable work. However, due to the events of December 15, 2023, he concluded that anything less than a three-day suspension would not be corrective and proportionate. (Testimony of Hudon)

38. On February 15, 2024, Supt. Hudon upheld Internal Complaint 2023-30I, finding that Ms. Bomil had made an obscene hand gesture toward a fellow officer; had directed indecent and profane statements at a fellow officer while having to be restrained; had exhibited aggressive behavior toward a fellow officer; and created a disturbance which reflected discredit upon herself

as a member of the Department. Supt. Hudon issued Ms. Bomil a Notice of Suspension for (1) the good of the Department and (2) for violation of the Rules and Regulations of the Department to wit:

J. Prohibited Conduct

1. Abusive Treatment – Officers and employees will not use any indecent, profane, or unnecessarily harsh language nor abuse the dignity of any citizen or fellow officer or employee.

4. Conduct Unbecoming an Officer – Conduct unbecoming an officer shall include that which brings the Department into disrepute or reflects discredit upon the officer as a member of the Department, or that which impairs the operation or efficiency of the Department and/or officer.

H. Required Conduct

6. Civility – All officers and employees shall be civil, orderly, diligent, discrete, courteous, and patient as a reasonable person is expected to be in any situation and will not engage in any physical altercation, or otherwise, whether on duty or not, with any officer or employee of the Department.

(Exhibit 2)

39. Supt. Hudon concluded that:

Your actions were inappropriate and unacceptable. They are in direct conflict with the core values of the Lowell Police Department.

You are reminded that any similar actions may result in further discipline up to and including termination.

(Exhibit 2)

40. After Ms. Bomil unsuccessfully challenged the suspension at a local hearing, this appeal to the Commission ensued. (Exhibit 12)

Applicable Law

A tenured civil service employee may be disciplined or discharged for “just cause” after due notice and hearing upon written decision “which shall state fully and specifically the reasons therefor.” G.L. c. 31, § 41. An employee aggrieved by the decision may appeal to the Commission. G.L. c. 31, § 43. Under section 43, the appointing authority carries the burden to prove to the Commission by a “preponderance of the evidence” that there was “just cause” for

the action taken. *Id. See, e.g., Falmouth v. Civil Serv. Comm'n*, 447 Mass. 814, 823 (2006); *Police Dep't of Boston v. Collins*, 48 Mass. App. Ct. 411, *rev. den.*, 726 N.E.2d 417 (2000). In performing its function:

...the commission does not view a snapshot of what was before the appointing authority...the commission hears evidence and finds facts anew...[after] a hearing *de novo* upon all material evidence and...not merely for a review of the previous hearing held before the appointing officer. There is no limitation of the evidence to that which was before the appointing officer... For the commission, the question is . . . “whether, on the facts found by the commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the appointing authority made its decision.”

Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-28 (2003) (quoting *Watertown v. Arria*, 16 Mass. App. Ct. 331, 334 (1983) (emphasis added)). *See also Falmouth* at 823; *Cambridge v. Civil Serv. Comm'n*, 43 Mass. App. Ct. 300, 303-05, *rev. den.*, 428 Mass. 1102 (1997).

An action is “justified” if it is “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.” *Commissioners of Civil Service v. Municipal Ct. of Boston*, 359 Mass. 211, 214 (1971); *Cambridge* at 304, *rev. den.*, 426 Mass. 1102 (1997); *Selectmen of Wakefield v. Judge of First Dist. Ct.*, 262 Mass. 477, 482 (1928). The Commission must take account of all credible evidence in the entire administrative record, including whatever would fairly detract from the weight of any particular supporting evidence. *See, e.g., Massachusetts Ass'n of Minority Law Enforcement Officers v. Abban*, 434 Mass. 256, 264-65 (2001). It is the purview of the hearing officer to determine credibility of testimony presented to the Commission. “[T]he assessing of the credibility of witnesses is a preserve of the [Commission] upon which a court conducting judicial review treads with great reluctance.” *Leominster* at 729. *See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm'n*, 401 Mass. 526, 529 (1988); *Doherty v. Retirement Bd. of Medford*, 425 Mass. 130, 141 (1997).

The Commission has consistently held police officers to a high standard of conduct even in the absence of indictable conduct or a criminal conviction. For example, in *Zorzi v. Norwood*, 29 MCSR 189 (2016), the Commission noted:

“An officer of the law carries the burden of being expected to comport himself or herself in an exemplary fashion.” *McIsaac v. Civil Service Comm’n*, 38 Mass. App. Ct. 473, 475 (1995) (negligent off-duty handling of firearm). When it comes to police officers, the law teaches that there is a special ‘trust reposed in [a police officer] by reason of his employment Police officers must comport themselves in accordance with the laws that they are sworn to enforce and behave in a manner that brings honor and respect for rather than public distrust of law enforcement personnel. They are required to do more than refrain from indictable conduct. Police officers are not drafted into public service; rather they compete for their positions. In accepting employment by the public, they implicitly agree that they will not engage in conduct which calls into question their ability and fitness to perform their official responsibilities.’ *Police Comm’r v. Civil Service Comm’n*, 22 Mass. App. Ct. 364, 371, *rev. den.*, 398 Mass. 1103 (1986).”

Section 43 of G.L. c. 31 also vests the Commission with the authority to affirm, vacate or modify a penalty imposed by the appointing authority. The Commission is delegated “considerable discretion” in this regard, albeit “not without bounds” so long as the Commission provides a rational explanation for how it has arrived at its decision to do so. *See e.g., Police Comm’r v. Civil Service Comm’n*, 39 Mass. App. Ct. 594, 600 (1996) and cases cited; *Falmouth v. Civil Service Comm’n*, 61 Mass. App. Ct. 796, 800 (2004); *Faria v. Third Bristol Div.*, 14 Mass. App. Ct. 985, 987 (1982) (remanded for findings to support modification). However, the Supreme Judicial Court has added that, in the absence of “political considerations, favoritism, or bias,” the same penalty is warranted “unless the commission’s findings of fact differ significantly from those reported by the town or interpret the relevant law in a substantially different way.” *Falmouth* at 824.

Analysis

Ms. Bomil has a strong record of public service. She began her law enforcement career as a UMass Lowell campus police officer, then a municipal police officer in the Town of Bolton,

followed by her current tenure with the Lowell Police Department, where she holds various specialized certifications. Beyond her official duties, Ms. Bomil has dedicated herself to the community, serving as a girls' lacrosse coach and the leader of a charitable boxing event to benefit individuals diagnosed with Parkinson's disease. Prior to the event in question, she had no prior discipline. It is against this backdrop that I have conducted a de novo review of the facts related to Ms. Bomil's alleged misconduct while attending a Department holiday party on December 15, 2023.

The City argues that Ms. Bomil, while being escorted out of the December 15, 2023 event by another officer, instigated a confrontation with another officer, Emaly Bouasri, by yelling crude obscenities about fellow officers in earshot of Officer Bouasri, who was sitting in her parked vehicle with the door open. Even Ms. Bomil acknowledges that she is embarrassed by her antics that night. She should be. Her comments and behavior were unbecoming of a police officer and I credit the testimony of percipient witnesses, including Officer Bouasri, that Ms. Bomil was yelling loud enough for others to hear her, including Bouasri. To me, that is sufficient to establish that it was *Ms. Bomil*, not Officer Bouasri, who instigated the ensuing confrontation. To ensure clarity, it was not Officer Bouasri's finest moment either. She took the bait, so to speak, and offered choice words of her own in response, albeit far less colorful in comparison to Ms. Bomil's crude rant.

Even if Ms. Bomil had not initiated the verbal confrontation, which the evidence shows she did, what Ms. Bomil did next, as shown by the video evidence and the credible testimony of percipient witnesses, constituted egregious misconduct that caused a potentially dangerous escalation of the confrontation. Ms. Bomil charged toward Officer Bouasri, while Bouasri was sitting in her vehicle. There was no justification for this escalation and the spectacle of fellow

officers having to physically restrain an out-of-control Bomil, who was still spewing obscenities in view of fellow officers and civilians, tarnished the image of the Lowell Police Department.

For the above reasons, I have concluded that the City has shown, by a preponderance of the evidence, that Ms. Bomil engaged in serious misconduct in violation of Department rules, which adversely impacted the public interest, providing just cause for discipline.

I now turn to Ms. Bomil's argument that she was subject to disparate treatment, which could warrant a downward modification of the 3-day suspension. First, Ms. Bomil argues that the City's failure to discipline Officer Bouasri is evidence of disparate treatment. It is not. As referenced above, although Officer Bouasri should have shown greater restraint, she was not the instigator of this incident and, unlike Ms. Bomil, she did not charge toward a fellow officer, let alone have to be physically restrained by fellow officers. In short, the behavior of these two individuals on December 15, 2023 is starkly distinguishable.

Ms. Bomil also argues that the City has not historically disciplined male officers involved in off-duty arguments and, in one instance, chose to promote a police sergeant to lieutenant who had been involved in a verbal dispute. The Appellant has failed to provide evidence to support this allegation. In summary, based on the facts of this particular case, and given the egregious nature of Ms. Bomil's misconduct, a 3-day suspension appears to be a tempered response by the City, notwithstanding that Ms. Bomil has no prior record of discipline.⁵

Finally, I have not overlooked other arguments raised by Ms. Bomil. Rather, after review, I have found them unfounded, irrelevant or not worth any weight. For example, Ms. Bomil spent considerable time focusing on the Superintendent's decision to reassign her around the time of

⁵ See *Boston v. Boston Police Patrolmen's Ass'n*, 443 Mass. 813, 822 n.9 (2005) ("That other police officers may have received lesser sanctions for their serious misconduct avails nothing here. Each case must be judged on its own facts")

the investigation as well as references purportedly made by command staff related to bypassing Ms. Bomil for an upcoming promotion. The Commission has no jurisdiction over the reassignment and I find that reassignment unrelated to my de novo review of whether Ms. Bomil engaged in serious misconduct on the night in question. Regarding the bypass, Ms. Bomil has indeed now been bypassed for promotion and has filed a bypass appeal with the Commission, which will be reviewed separately.

As noted above, Ms. Bomil has a strong record of public service. Unfortunately, it appears that a falling out with certain colleagues and other factors may have caused her to exercise poor judgement and engage in misconduct. Both for her sake, and the citizens of Lowell, I am hopeful what occurred here was a temporary hiccup from which Ms. Bomil can recover and move forward with her distinguished career and commitment to the community.

CONCLUSION

Accordingly, the appeal of Kerri Bomil filed under Docket No. D-24-042 is hereby *denied*. The Commission hereby upholds the Appointing Authority's decision to impose the three-day suspension.

Civil Service Commission
/s/ *Angela C. McConney*
Angela C. McConney
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney, Stein, Commissioners) on March 6, 2025.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 C.M.R § 1.01(7)(l), the motion must identify a clerical or mechanical error in the 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:

Joseph P. Kittredge, Esq. (for Appellant)

Lorena Galvez, Esq. (for Appellant)

Garrett Beaulieu, Esq. (for Respondent)