

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Josh Bowdridge,
Petitioner,

No. CR-22-0377

Dated: June 28, 2024

v.

State Board of Retirement,
Respondent.

Appearances:

For Petitioner: Josh Bowdridge (pro se)

For Respondent: Yande Lombe, Esq.

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

The petitioner is not entitled to retire under the “20/50” provision of G.L. c. 32, § 28N, because he has not served as a correction officer for twenty years.

DECISION

Petitioner Josh Bowdridge appeals from a decision of the State Board of Retirement declining to find him eligible to retire under the “20/50” provision of G.L. c. 32, § 28N. At Mr. Bowdridge’s request, the appeal was submitted on the papers under standard rule 10(c).¹ I admit into evidence exhibits marked 1-5.

Findings of Fact

I find the following facts.

1. Mr. Bowdridge began working at the Lowell Community Corrections Center in August 2002. His employer was the Middlesex County Sheriff’s Office. He served as a

¹ In accordance with G.L. c. 30A, § 9, the “standard rules” in this context are the provisions of 801 C.M.R. § 1.01.

correction officer until 2013 and as a senior correction officer until 2015. His responsibilities in both positions revolved around maintaining custody and control of inmates, drug testing them, and assisting them in their pursuit of employment opportunities in the community.

(Exhibits 1, 2, 5.)

2. From 2015 to 2018, Mr. Bowdridge served as an assistant deputy superintendent of the Lowell facility. His primary duties involved supervising the facility's operations, managing its electronic monitoring program, and overseeing lower-ranking employees. He conducted some work with inmates on a daily basis. (Exhibits 1, 5.)

3. From 2018 to 2021, Mr. Bowdridge served as an assistant superintendent, still in the Lowell facility. He retained the responsibilities of his prior position. He also met with inmates seeking to participate in the electronic monitoring program and reviewed their cases. (Exhibits 1, 5.)

4. From 2021 to 2022, Mr. Bowdridge served as the Lowell facility's program director. His responsibilities did not change significantly. He continued to interact with inmates on a regular basis. (Exhibits 1, 5.)

5. Through the years, Mr. Bowdridge occasionally substituted for other employees in the role of shift commander. The shift commander is responsible for maintaining custody and control of inmates, preparing reports of disturbances, and enforcing day-to-day correctional rules. (Exhibit 5.)

6. In March 2022, Mr. Bowdridge submitted a "group classification questionnaire" to the board. He checked a box indicating that he was seeking a determination of eligibility to retire under the "20/50" provision of G.L. c. 32, § 28N. In August 2022, the board denied Mr. Bowdridge's request. He filed this timely appeal. (Exhibits 1, 3, 4.)

Analysis

General Laws chapter 32, section 28N, grants a special retirement allowance to “any correction or jail officer employed by county sheriffs’ offices who has performed services in said office for not less than twenty years.” The amount of the allowance is “one-half of . . . [the officer’s] regular compensation during the twelve-month period . . . immediately preceding the date his retirement allowance becomes effective.” *Id.* The terms of this provision are colloquially known as “20/50.”

Read literally, the 20/50 provision requires the member to be a “correction or jail officer” at the time of retirement, and to have “performed services” in a sheriff’s office—arguably, any such services—for twenty years. But the case law has interpreted § 28N to mean that “an individual must serve a full 20 years *as a corrections or jail officer.*” *Moran v. State Bd. of Ret.*, No. CR-19-242, at *8 (DALA Mar. 4, 2022) (emphasis added). *See Robbins v. Barnstable Cty. Ret. Bd.*, No. CR-95-980 (CRAB May 20, 1998). This construction matches § 28N’s likely legislative intent: the twenty-year threshold suggests that the Legislature was more interested in the member’s work over time than in his or her role upon retirement. *Cf. Moran, supra*, at *8.

The next question is whether a member’s classification as a “correction officer” depends on the member’s formal job title or on his or her day-to-day duties. A recent decision adopts the former approach, stating: “Section 28N focuses on the job title . . . not on the specific duties of persons holding the position.” *DeFigueiredo v. State Bd. of Ret.*, No. CR-21-186, 2024 WL 2880420, at *3 (DALA May 31, 2024). This approach is consistent with the case law’s reading of the “grouping” statute, G.L. c. 32, § 3(2)(g). In that context, when the Legislature was interested in a member’s day-to-day responsibilities, it used the language “employees . . . *whose regular and major duties* require them to have the care, custody, instruction or other supervision of prisoners.” *Id.* (emphasis added). By contrast, when the Legislature spoke of “the sheriff,

superintendent, assistant superintendent, assistant deputy superintendent and correction officers,” it thereby conveyed its focus on “positions or titles rather than . . . the type of work [members] perform.” *Gaw v. Contributory Ret. Appeal Bd.*, 4 Mass. App. Ct. 250, 254 (1976). See *Hunter v. Contributory Ret. Appeal Bd.*, 80 Mass. App. Ct. 257, 260-61 (2011).

Mr. Bowdridge held the title of correction officer only from 2002 until 2015. Thereafter, he continued to work in a correctional setting, but in positions carrying other titles. He thus spent less than twenty years in the particular job that G.L. c. 32, § 28N speaks of.

Mr. Bowdridge’s essential view seems to be that § 28N *does* call for an inquiry into the member’s actual job duties. Even if that were true, the result would likely remain unchanged. The record does not include a formal description of the “correction officer” position. But the core of that position may be inferred from the evidence concerning Mr. Bowdridge’s own job history. Apparently, while more senior correctional staff discharge other responsibilities of a more administrative nature, the duties of a correction officer revolve almost entirely around maintaining day-to-day custody and control of a facility’s inmates. Those were Mr. Bowdridge’s essential duties only until 2015. In subsequent years, his position came to lean more heavily toward employee supervision and program oversight. His actual duties in those years thus also would not have made him a correction officer.

Conclusion and Order

Mr. Bowdridge does not satisfy the requirements of G.L. c. 32, § 28N. The board’s decision is therefore AFFIRMED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate