



**COMMONWEALTH OF MASSACHUSETTS****SUFFOLK, ss****SUPERIOR COURT  
CIVIL ACTION NO. 08-3048****MICHAEL ANDREW FISH,  
Plaintiff**


v.

**BOSTON POLICE DEPARTMENT and  
HUMAN RESOURCES DIVISION****DECISION OF THE COURT ON PLAINTIFF'S REQUEST  
FOR PRELIMINARY RELIEF**

Absent some showing by the plaintiff that he timely filed his own fair test appeal form with the Human Resources Division ("HRD") or that he has some tangible evidence indicating that he likely filed this appeal form in a timely manner, the plaintiff cannot establish a likelihood of success on the merits. He has not made that showing in either his filed papers or his oral argument on July 17, 2008. His general allegations about HRD losing papers and other mismanagement on their part is insufficient.

Furthermore the balance of harms favors the defendant, Boston Police Department. The plaintiff is current a sergeant in the Boston Police Department and should he ultimately prevail in this case he can receive monetary damages. The Boston Police Department on the other hand has a pressing need in the public interest to appoint Lieutenants to current vacancies. See the affidavit of Robert Dunford, Ex. D to the Boston Police Department's Opposition.

For these reasons the plaintiff's request for Preliminary Relief in the form of a Preliminary Injunction is DENIED.

  
\_\_\_\_\_  
John C. Cratsley  
Justice of the Superior Court

Monday, July 21, 2008