

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

JUSTIN BRADY,
Appellant

v.

G1-18-169

CITY OF PITTSFIELD,
Respondent

Appearance for Appellant:

Pro Se
Justin Brady

Appearance for Respondent:

Fernand J. Dupere, Esq.
94 North Elm Street, Suite 307
Westfield, MA 01085

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On September 4, 2018, the Appellant, Justin Brady (Mr. Brady), filed a bypass appeal with the Civil Service Commission (Commission), regarding his non-selection as a firefighter to the City of Pittsfield (City)'s Fire Department.
2. On October 24, 2018, I held a pre-hearing conference at the Springfield State Building, which was attended by Mr. Brady, counsel for the City, the City's Fire Chief and the City's Personnel Director.
3. As part of the pre-hearing, the parties stipulated that Mr. Brady was not "bypassed" for appointment, as no candidate ranked below him on Certification No. 05281 was appointed during the hiring cycle in question.
4. Rather, at the pre-hearing, Mr. Brady clarified that he believed he was aggrieved because up to three (3) candidates appointed from Certification No. 05281 should not have appeared above him as, according to Mr. Brady, they did not qualify for residency preference in Pittsfield.
5. The parties agreed that, in order to qualify for residency preference in this hiring cycle, the candidates must have continuously resided in Pittsfield for one (1) year prior to the date of

the applicable (written) civil service examination, which was held on April 16, 2016. Thus, in order to receive residency preference, the candidates would have resided in Pittsfield from April 16, 2015 to April 16, 2016.

6. As part of the pre-hearing conference, the Appellant provided documents which, according to him, show or call into question the residency of three (3) appointed candidates during the residency preference window referenced above.
7. Consistent with the discussion at the pre-hearing conference, I hereby order the following:
 - A. Mr. Brady's appeal under Docket No. G1-18-169 will be dismissed, as the parties agree that no bypass occurred.
 - B. Mr. Brady shall have thirty (30) days to file a Petition with the Commission, stating why the Commission, pursuant to G.L. c. 31, s. 2(a), should exercise its discretion to initiate an investigation. Said Petition would receive a separate tracking number.
 - C. The City shall have thirty (30) days thereafter to file a reply regarding whether the Commission should initiate an investigation.
 - D. Upon review of the above-referenced submissions, the Commission may issue further orders, as warranted.

For these reasons, Mr. Brady's bypass appeal under Docket No. G1-18-169 is *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on November 8, 2018.

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 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or 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:

Jared Rourk (Appellant)

Fernand Dupere, Esq. (for Respondent)

Michael Downey, Esq. (HRD)