

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

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

CHRISTOPHER BULGER,
Appellant

v.

G1-05-399

CITY OF QUINCY,
Respondent

Appellant's Attorney:

*Pro Se*¹
Christopher Bulger
97 Hilma Street
North Quincy, MA 02171

Respondent's Attorney:

Kevin J. Madden, Esq.
First Assistant City Solicitor
City of Quincy
1305 Hancock Street
Quincy, MA 02169

Commissioner:

Christopher C. Bowman

**DECISION ON JOINT REQUEST FOR RELIEF UNDER
CHAPTER 310 OF THE ACTS OF 2003**

Background

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant, Christopher Bulger (hereafter "Bulger" or Appellant") appealed the decision of the Personnel Administrator (hereafter "HRD") to accept the reasons of the Respondent, the City of Quincy (hereafter "Appointing Authority", or "City"), bypassing him for original appointment in 2005 to

the position of police officer in the Quincy Police Department. The Appellant filed a timely appeal with the Commission on November 21, 2005.

As part of their bypass of the Appellant in 2005, the City submitted a 3 ½ page letter to HRD outlining the reasons for bypass. Among the reasons listed by the City in 2005 for bypassing the Appellant were:

- “On his 2005 Quincy Police Department application, Mr. Bulger listed six (6) motor vehicle accidents. On four of these accidents, he failed to include any other information relative to location and police department ...”
- “Mr. Bulger served on the Boston Municipal Police force for thirteen (13) years. During this time he was cited on numerous occasions regarding absenteeism. He received written letters on [10] dates... Although specifically asked during the interview process, both verbally and in written form, Mr. Bulger never identified the suspension or written warnings [related to absenteeism] ...”;
- “Mr. Bulger transferred to the Northeastern University Police for one and a half (1.5) years. A background investigation of Mr. Bulger conducted by Harvard University Police [a subsequent employer] includes a positive reference from his supervisor. However, the reference also stated that Mr. Bulger needed to work on his absenteeism. He stated that Mr. Bulger’s attendance was ‘borderline’ and that he had been put on notice of the same.”
- “... Investigators found in Mr. Bulger’s employment file, a past employment verification section. Included in that section was a listing of previous employment as a bus driver for the Carney Hospital. Although specifically asked during the 2003 interview process, both verbally and in written form, Mr. Bulger never identified Carney Hospital as a past employer. Subsequently, Mr. Bulger confirmed that he was employed as a part time bus driver and had failed to disclose the information because he had forgotten. Mr. Bulger had been employed as “Parking / Security” at that facility for five years.”
- “...During a review of Mr. Bulger’s motor vehicle tax receipts the investigator discovered that in 1999 Mr. Bulger provided an address of [Quincy address redacted]. Multiple other sources of information identified his address as [Dorchester address redacted]. Mr. Bulger

¹ The Appellant was formerly represented by Attorney James S. Timmins, Esq. Attorney Timmins, who now serves as City Solicitor for the Appointing Authority, withdrew as the Appellant’s counsel on March 10, 2008.

attributed the discrepancy to his registration of his motor vehicles at his wife's mother's address to avoid higher insurance payments. This is not a residency issue, but a question of Mr. Bulger's veracity."

(September 21, 2005 letter from City to HRD)

A pre-hearing conference was conducted by the Commission on March 13, 2006 and a full hearing was scheduled for September 26, 2007. At the request of the City, the full hearing was re-scheduled to October 24, 2007. At the request of the Appellant, the October 24, 2007 full hearing was re-scheduled to December 12, 2007. On December 7, 2007, then-counsel for the Appellant, James Timmins, sought a continuance, stating that he could no longer represent the Appellant as he had recently been appointed as City Solicitor for the Appointing Authority², which placed him in a position of conflict. That request for a continuance indicated that the Appellant anticipated obtaining new counsel who would submit an appearance with the Commission within 30 days. The Commission allowed the request for a continuance and re-scheduled the matter for a full hearing on February 25, 2008.

On December 20, 2007, at the request of Attorney David Grunebaum, who was representing the City at the time and had a scheduling conflict, the February 25, 2008 full hearing was re-scheduled to March 10, 2008.

On March 7, 2008, the Commission received the Appellant's assented-to Motion to Continue the March 10, 2008 full hearing from Attorney James Timmins, stating, in part:

"In support of this motion, the Appellant states that his counsel is now the City Solicitor for the City of Quincy. He is therefore conflicted out of this case. Despite due diligence, the Appellant has been unable to procure new counsel ... It is anticipated that Mr. Bulger will retain new counsel who will file an appearance; at that time, the undersigned counsel will withdraw."

² The City of Quincy elected a new Mayor on November 6, 2007.

Given that this case had been filed with the Commission in 2005, had been granted four previous continuances, and that the Appellant had had given ample time to retain new counsel, this most recent request for a continuance was denied. However, instead of a full hearing, the Commission conducted a status conference on March 10, 2008.

At the status conference before the Commission on March 10, 2008, Attorney James Timmins filed a notice of withdrawal as counsel for the Appellant. The Appellant appeared and submitted a Notice of Appearance indicating that he was now pro se. Assistant City Solicitor Kevin Madden appeared and submitted an appearance form on behalf of the City.

At the March 10, 2008 status conference the parties presented a “settlement agreement,” jointly requesting that the Commission use its authority under Chapter 310 of the Acts of 2003 to place the Appellant’s name first on the next civil service certification list provided to the City of Quincy for the position of police officer.³ The settlement agreement further stated that, “The Appointing Authority shall then subject Bulger to the same background review process as all other candidates, with the sole exception that *Bulger’s background review shall commence as of September 21, 2005* – the date of completion of his last background check.” (*emphasis added*) In this proposed settlement agreement, the City effectively prohibited itself from considering *any* of the reasons outlined in its 2005 letter to HRD - including questions about the Appellant’s driving history, excessive absenteeism and potential insurance fraud. When this Commissioner questioned the City’s determination on this issue, especially in light of the resulting unfairness to other candidates whose background checks would presumably

³ According to the State’s Human Resources Division (HRD), there are currently over 800 individuals ranked above the Appellant on the current eligibility list for police officer in the City of Quincy.

include their entire adult lives, the parties subsequently submitted an updated settlement agreement striking that provision.

Conclusion

These circumstances are seriously amiss. Although the Commission, a quasi-judicial board that receives and processes hundreds of civil service appeals each year, regularly encourages parties to reach settlement agreements when possible, this agreement - even with the above-referenced stricken provision - does not sit well with this Commissioner. The 3 ½ page 2005 letter from the City to HRD is dedicated exclusively to the negative reasons for bypassing the Appellant. Given the issues outlined in that 2005 letter, the Commission concludes that absent a full public hearing and further clarification from the parties as to why the reasons outlined in that 2005 letter do not *now* present reasonable justification for bypassing the Appellant at that time and in the present, the Commission is disinclined to place the name of the Appellant ahead of over 800 other individuals currently seeking to be employed as Quincy police officers.

For these reasons, the parties' joint request for relief under Chapter 310 of the Acts of 1993 is ***denied***.

Civil Service Commission

Christopher C. Bowman, Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis and Taylor, Commissioners) on May 1, 2008.

A true record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a 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 the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice:

Christopher P. Bulger (Appellant)

Kevin J. Madden, Esq. (for Appointing Authority)

John Marra, Esq. (HRD)