

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

JOHN CARR,
Appellant

v.

G2-06-211

**CITY OF BROCKTON AND
HUMAN RESOURCES DIVISION,¹**
Respondents

Appellant's Attorney:

Judith R. Cohen, Esq.
90 Verndale Street, Unit 2
Brookline, MA 02446

Respondent's Attorney:

Wendy Chu, Esq.
Human Resources Division
One Ashburton Place, Room 207
Boston, MA 02108

Respondent's Attorney:

James M. McCormick, Esq.
Assistant City Solicitor
City of Brockton
City Hall - 45 School Street
Brockton, MA 02310

Commissioner:

Donald R. Marquis

DECISION

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant, John Carr (hereafter "Carr" or "Appellant") appealed the decision of the Respondent, City of

¹The Appellant states that it did not name the City as a Respondent but that it was designated as such by the Commission. The Appellant asserts that he and the City have identical interests in the matter.

Brockton (the “City”) and the Human Resources Division (hereafter “Respondent” or “HRD”) in bypassing him for appointment to the position of Police Sergeant and challenging the promotional list generated by the HRD for appointment to Sergeant. The appeal was timely filed. On December 12, 2006, the City submitted a Motion to Dismiss and the HRD submitted a Motion to Dismiss on January 8, 2007. On March 20, 2007, the Mayor of the City during the relevant time period submitted an affidavit. The Appellant submitted an opposition to the HRD’s Motion on March 23, 2007. In the course of pursuing a decision in this case, the parties came to agreement and submitted a joint resolution for equitable relief on May 7, 2007.

The Commission accepts the parties’ agreement in this matter and, pursuant to its powers of equitable relief inherent in Chapter 534 of the Acts of 1976, as amended by Chapter 310 of the Acts and Resolves of 1993, hereby orders the Human Resources Division to take the following actions:

Certification List No. 8632 for promotion to the position of Police Sergeant in the City of Brockton shall be revived and the name of John Carr shall be placed at the top of that list in order to be considered for one, and only one, selection from said list.

Civil Service Commission

Donald R. Marquis
Commissioner

By vote of the Civil Service Commission (Henderson, Chairman, Taylor, Guerin, Marquis and Bowman, Commissioners) on June 21, 2007.

A true record. Attest:

Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. 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.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A 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 to:

Judith R. Cohen, Esq.

James M. McCormick, Esq.

Wendy Chu, Esq.