

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

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

DAVID COLON,  
Appellant

G2-14-33

v.

SPRINGFIELD FIRE DEPARTMENT,  
Respondent

Appearance for Appellant:

Kevin Coyle, Esq.  
1299 Page Boulevard  
Springfield, MA 01104

Appearance for Respondent:

Maite Aponte Parisi, Esq.  
City of Springfield  
36 Court Street  
Springfield, MA 01103

Commissioner:

Christopher C. Bowman

**ORDER OF DISMISSAL**

On February 4, 2014, the Appellant, David Colon (Mr. Colon) filed a “bypass appeal” with the Civil Service Commission (Commission) regarding the Springfield Fire Department (Department)’s decision not to grant him a promotional appointment to the position of Deputy Fire Chief.

On February 26, 2014, I held a pre-hearing conference at the Springfield State Building in Springfield, which was attended by Mr. Colon, his attorney, the Fire Chief and counsel for the Fire Department. As part of that pre-hearing, it became evident that Mr. Colon was not “bypassed”. Rather, the Fire Department, consistent with civil service law and rules, had made a provisional promotion to the position of Deputy Fire Chief, as there were less than (3) names on the eligible list for said position. When, as here, a provisional promotion is made, there can be no bypass.

I also reviewed Mr. Colon’s appeal in the context of whether he had shown reasons why the Commission should conduct an investigation under G.L. c. 31, s. 2(a). He has not. I based this on a review of all the statements made at the pre-hearing conference and any documents submitted.

Finally, I provided counsel for the Appellant with thirty (30) additional days to supplement his appeal submission to show justification why the Commission should open an investigation. No such submission was received.

For all of the above reasons, Mr. Colon's appeal under Docket No. G2-14-33 is hereby *dismissed*.

Civil Service Commission

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Christopher C. Bowman  
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell, and Stein, Commissioners) on May 29, 2014.

A true record. Attest:

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Commissioner

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.

Notice:

Kevin Coyle, Esq. (for Appellant)  
Maite Aponte Parisi, Esq. (for Repondent)  
John Marra, Esq. (HRD)