

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108
(617) 979-1900

RANCE COOLEY,
Appellant

v.

B2-21-172

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro se
Rance Cooley

Appearance for Respondent:

Alexis Demirjian, Esq.
Human Resources Division
100 Cambridge Street, 6th Floor
Boston, MA 02114

Commissioner:

Christopher C. Bowman

DECISION ON RESPONDENT’S MOTION FOR SUMMARY DECISION

On September 20, 2021, the Appellant, Rance Cooley (Appellant), filed an appeal with the Civil Service Commission (Commission), contesting his education and experience (E&E) score on a recent promotional examination for Boston Police Sergeant. On October 26, 2021, I held a remote pre-hearing conference which was attended by the Appellant and counsel for the state’s Human Resources Division (HRD). The parties stipulated to the following:

- A. On August 29, 2020, the Appellant took the written portion of a weighted-graded promotional examination for Boston police sergeant.
- B. The examination was delegated to the Boston Police Department, with HRD responsible for grading the education and experience component of the examination.

- C. On August 13, 2021, the Appellant received his score from HRD, indicating that he had received 16.28 out of 20 possible E&E points and a total score of 85.
- D. An eligible list has subsequently been established and the Appellant is ranked 200th.
- E. The Appellant filed a timely appeal of his E&E score with HRD.
- F. HRD denied the Appellant's appeal and the Appellant filed a timely appeal with the Commission.

At the pre-hearing conference, counsel for HRD indicated that, when the Appellant completed his E&E component, he failed to list any of his experience. HRD, at some point, either before or during the appeal process, reviewed the Appellant's experience and credited the Appellant with what they believed to be the appropriate experience for relevant time periods, resulting in a score of 16.28 out of 20.

At the pre-hearing conference, the Appellant indicated that he did indeed list the experience that he should be given credit for and that he is unclear regarding how HRD went about allocating his experience among different questions. HRD agreed to review with the Appellant how his experience was allocated across various questions and report back to the Commission regarding the outcome of those discussions. HRD reported back to the Commission that the parties had met and that HRD and the Appellant were unable to come to a "consensus" regarding his E&E score. HRD's motion and the Appellant's reply followed.

HRD's motion details how, if HRD had relied solely on the Appellant's answers to the E&E questions, he would have received an E&E score of 14.06 and a total score of 83. Instead, as a result of the adjustments made by HRD, the Appellant's E&E score was adjusted upward to 16.28, giving the Appellant a total score of 85.

The Appellant raises an entirely new issue in his response. Effectively, the Appellant is seeking to argue that the E&E portion of the examination should have included questions that would have given him additional credit for his prior experience in the field of social work.

Motion for Summary Decision Standard

When a party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he or she is entitled to prevail as a matter of law, the party may move, with or without supporting affidavits, for summary decision on the claim or defense. 801 CMR 1.01(7)(h). These motions are decided under the well-recognized standards for summary disposition as a matter of law i.e., “viewing the evidence in the light most favorable to the non-moving party”, the substantial and credible evidence established that the non-moving party has "no reasonable expectation" of prevailing on at least one "essential element of the case", and has not presented evidence "plausibly suggesting" the existence of "specific facts" that could raise "above the speculative level" the existence of a material factual dispute requiring an evidentiary hearing. See e.g., Lydon v. Massachusetts Parole Board, 18 MCSR 216 (2005). Accord Milliken & Co., v. Duro Textiles LLC, 451 Mass. 547, 550 n.6 (2008); Maimonides School v. Coles, 71 Mass. App. Ct. 240, 249, (2008). Post v. Belmont Country Club, Inc. 60 Mass. App. Ct. 645, 6460647 (2004). See also Iannacchino v. Ford Motor Company, 451 Mass. 623, 635-36 (2008) (discussing standard for deciding motions to dismiss); cf. R.J.A. v. K.A.V., 406 Mass. 698 (1990) (factual issues bearing on plaintiff’s standing required denial of motion to dismiss).

Analysis

In summary, the Appellant is arguing that the education and experience portion of this examination was not a fair test of his abilities as it does not provide adequate credit for his prior experience in the field of social work. The Appellant, however, did not file a fair test appeal

with HRD (see the strict requirements of G.L. c. 31, §§ 22 and 24) and the appeal that he did file was several months beyond the deadline for filing a fair test appeal. What he did file was an appeal contesting the amount of E&E points he was awarded. The unrefuted evidence presented by HRD shows that, had HRD relied solely on the answers provided by the Appellant, as opposed to adjusting those answers accordingly, the Appellant would have received a score two points lower (83) than he actually received (85). The Appellant is not an aggrieved person and he failed to file a fair test appeal with HRD in a timely manner – or at all for that matter.

Conclusion

For all of the above reasons, HRD’s motion for summary decision is allowed and the Appellant’s appeal is *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chair

By a vote of the Civil Service Commission (Bowman, Chair; Stein and Tivnan, Commissioners [Camuso – Absent]) on April 21, 2022.

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:
Rance Cooley (Appellant)
Alexis Demirjian, Esq. (for Respondent)