

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT  
CIVIL ACTION NO.  
MICV2009-04072-C

DOUGLAS CRONIN  
Plaintiff

vs.

MASSACHUSETTS CIVIL SERVICE  
COMMISSION and TOWN OF ARLINGTON  
Defendants

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COMMONWEALTH OF MASS  
CIVIL SERVICE COMMISSION

RULINGS AND MEMORANDUM ON PLAINTIFF'S  
MOTION FOR JUDGMENT ON THE PLEADINGS

This case came before the Court on Plaintiff's Motion for Judgment on the Pleadings. The plaintiff, Officer Douglas Cronin ("Cronin"), pursuant to G.L. c.31, § 43, filed a timely disciplinary appeal with the Civil Service Commission (the "Commission") on August 31, 2007. He contends that the August 29, 2007 decision of the Town of Arlington (the "Town"), to suspend his employment as a police officer for two days, was not supported by the statutorily required just cause.

A pre-hearing conference was held at the Commission on June 4, 2008. A full evidentiary hearing was held at the Division of Administrative Law Appeals (DALA) on April 2 and April 7, 2009. The parties filed timely proposed decisions with the DALA Magistrate, and on July 27, 2009, DALA issued a recommended decision. On August 27, 2009, Cronin filed objections to the recommended decision. By decision dated September 17, 2009, the Commission adopted - by a tied 2-2 vote (with one commissioner not participating) - DALA's decision to uphold the suspension.

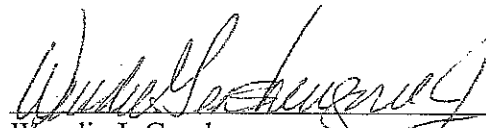
Pursuant to G.L. c.31, § 44 and c.30A, § 14, the plaintiff appealed the decision of the

Commission upholding the August 29, 2007 decision of the Town to suspend Cronin's employment for two days because he violated a police department rule prohibiting "[d]iscourtesy, rudeness or insolence to any member of the public." The Commission adopted the magistrate's recommended decision and findings of fact, finding just cause for Cronin's suspension "in light of his unprofessional, condescending, and discourteous behavior during a motor vehicle stop on March 7, 2007." Specifically, the magistrate concluded that Cronin's statements, "[w]hat are you, a \$50 deputy? What did you do, have a \$50 breakfast with the Sheriff?" And his comments that Ms. Sheehan needs to stop "flashing . . . [her] badge and when . . . [she] gets home, it should be on display on the wall where it belongs" were "offensive in nature and were meant to distress [Sheehan]." Cronin asserts that the magistrate's decision was not supported by substantial evidence and that her choice to credit Ms. Sheehan's testimony rendered her decision arbitrary and an abuse of discretion. Upon review of the record and after hearing, the Court **DENIES** Cronin's Motion for Judgment on the Pleadings and **AFFIRMS** the decision of the Commission. "Under the substantial evidence test, the reviewing court may not make new determinations of facts or make different credibility choices." Leominster v. Stratton, 58 Mass. App. Ct. 726, 733 (2003) (internal citation omitted). This Court defers to the magistrate's factual findings and credibility determinations, and finds that the record amply supports her decision.

The plaintiff's Motion is hereby **DENIED** and the decision of the Civil Service Commission is **AFFIRMED**.

Date: July 19, 2010

Entered: 7/22/10

  
Wendie I. Gershengorn  
Justice of the Superior Court