

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**

100 Cambridge Street, Suite 200

Boston, MA 02114

(617) 979-1900

**GEOVANNY CRUZ-SANCHEZ,**

*Appellant*

v.

**BOSTON POLICE DEPARTMENT,**

*Respondent*

Docket Number:

G1-25-021

Appearance for Appellant:

James Gilden, Esq.  
173 North Main St.  
Sharon, MA, 02067-1230

Appearance for Respondent:

Joseph A. McClellan, Esq.  
Boston Police Department  
Office of the Legal Advisor  
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Commissioner:

Shawn C. Dooley

**SUMMARY OF DECISION**

The Commission overturned the Boston Police Department's decision to bypass a candidate for appointment as a police officer as the Department was unable to support the reasons listed in its bypass letter, including allegations related to the candidate's interaction with police that resulted in criminal charges, which were eventually dismissed.

**DECISION**

On January 21, 2025, the Appellant, Geovanny Cruz-Sanchez (Appellant), filed a timely appeal with the Civil Service Commission (Commission) pursuant to G.L. c. 31, § 2(b), challenging the decision of the Boston Police Department (BPD) to bypass him for appointment

as a police officer for the BPD. The Commission held a remote pre-hearing conference on February 25, 2025. On April 1, 2025, I conducted an in-person full hearing at the offices of the Commission in Boston. The hearing was recorded via Webex.<sup>1</sup> Both parties filed proposed decisions. For the reasons set forth below, the Appellant's appeal is *allowed*.

## **FINDINGS OF FACT**

The Appellant entered into evidence four exhibits (App. Ex. 1-4) and the BPD entered nine exhibits (Resp. Ex. 1-9) into evidence. Based upon the documents entered into evidence and the testimony of the following witnesses:

*Called by the BPD:*

- Natasha Levarity, Director of Human Resources, Boston Police Department
- Detective Joel Resil, Recruit Investigation Unit (RIU), Boston Police Department
- Officer Justin Evangelista, Boston Police Department

*Called by the Appellant:*

- Geovanny Cruz-Sanchez, Appellant

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes the following facts:

1. The Appellant is a 28-year-old Hispanic male who was born in Puerto Rico. (*Testimony of Appellant*)
2. The Appellant moved to Boston when he was 8 years old and graduated from a Boston high school. (*Testimony of Appellant*)

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<sup>1</sup> A link to the audio/video recording was provided to the parties. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. If such an appeal is filed, the recording provided to the parties should be used to transcribe the hearing.

3. On March 15, 2024, the Appellant took and passed the civil service examination for police officer. *(Stipulated Fact)*
4. On June 1, 2024, the state's Human Resources Division (HRD) issued Certification No. 09999 to the BPD. *(Stipulated Fact)*
5. The Appellant was ranked 66<sup>th</sup> on the certification. *(Stipulated Fact)*
6. Approximately 49 candidates ranked below the Appellant were appointed. *(Stipulated Fact)*
7. On January 13, 2025, the BPD notified the Appellant of its decision to bypass him for appointment, citing his driving history, references to check fraud committed by someone with a similar name, as well as poor judgment related to his conduct in connection with an interaction with Boston police officers in November 2020 that resulted in his arrest. *(Res. Ex. 1)*

#### *Background Investigation*

8. In September 2024, the Appellant attended orientation for the Boston Police Department, completed an application for employment, and a POST questionnaire. *(Testimony of Appellant, Exhibit 5, Testimony of Resil)*
9. The Appellant was introduced to Detective Joel Resil of the Boston Police Department's Recruit Investigation Unit (RIU) and was informed that the latter was assigned to handle the Appellant's background investigation. *(Testimony of Appellant, Testimony of Resil)*
10. The Appellant's driving record consists of the following entries: *(Res. Ex. 2 & 4)*

|             |                                  |         |
|-------------|----------------------------------|---------|
| a. 04/02/24 | Fail to Signal                   | Warning |
| b. 04/02/24 | Window obstructed/nontransparent | Warning |
| c. 12/19/23 | Number plate violation           | Warning |
| d. 12/19/23 | window obstructed/nontransparent | Warning |
| e. 07/11/23 | number plate violation           | Warning |
| f. 07/11/23 | number plate violation           | Warning |
| g. 08/22/22 | number plate violation           | Warning |

|    |          |                        |                 |
|----|----------|------------------------|-----------------|
| h. | 03/15/23 | failure to stop/yield  | Warning         |
| i. | 01/23/20 | number plate violation | Not responsible |
| j. | 12/26/19 | modified height        | Responsible     |
| k. | 12/26/19 | equipment violation    | Warning         |
| l. | 12/18/19 | number plate violation | Warning         |
| m. | 10/31/19 | inspection sticker     | Warning         |
| n. | 07/15/19 | safety standards       | Warning         |
| o. | 07/15/19 | safety standards       | Warning         |
| p. | 07/03/19 | seat belt              | Responsible     |
| q. | 05/19/19 | equipment violation    | Responsible     |
| r. | 01/24/19 | window obstructed      | Warning         |

11. The Appellant is a mechanic and, as a hobby, customizes vehicles and takes the vehicles to auto shows in Massachusetts and neighboring states. He has often been stopped by police officers while driving his cars to the auto shows but usually receives a warning when he explains that he is transporting the car to an event. *(Testimony of Appellant)*

12. The BPD also listed as a reason for bypass that a person with a similar (albeit different) name as the Appellant was a person of interest in a check forgery case. The BPD never questioned him about this finding nor were they able to offer evidence to show that he was the person named in the report. He was never questioned by the Quincy police on this matter nor was he ever cited. He first learned of this issue upon receipt of the bypass letter. *(Testimony of Appellant, Res. Ex. 3)*

#### **November 7, 2020 incident**

13. On November 7, 2020, a large crowd of approximately 150-200 people, including the Appellant, gathered near the intersection of Columbia Road and Bird Street in Dorchester following the funeral of a local resident killed in an automobile accident. *(Testimony of Appellant and Evangelista, Res. Ex. 6)*

14. The scene was chaotic with loud music, drag racing, and drinking. *(Testimony of Appellant, Res. Ex. 6)*

15. Police officers arrived on scene to clear the street. A police officer (Police Officer 1) was almost hit by a car that attempted to strike him and Police Officer 1 attempted to apprehend this individual. He was then surrounded by a crowd of roughly 35 individuals and became the target of this group as they began to shove him, throw cans and bottles at him, and dump liquid on both him and his cruiser. This aggression toward Police Officer 1 continued and he contacted operations to get more units for support. (*Testimony of Appellant, Res. Ex. 6*)
16. At approximately 1:00 pm, officers from multiple Districts responded to a radio call for an Officer in Trouble near the intersection of Columbia Road and Bird St. (*Res. Ex. 6*)
17. One of the responding officers was Officer Justin Evangelista who had been handling an unrelated landlord-tenant dispute when he received the call. He immediately proceeded to the area with his partner. (*Res. Ex. 8, Testimony of Officer Evangelista*)
18. Officer Evangelista activated his body camera while responding to the incident. (*Testimony of Officer Evangelista*)
19. After additional officers arrived, Police Officer 1 identified an individual as the individual who shoved him. (*Res. Ex. 6*)
20. At this point, the BPD presence far exceeded the number of civilians milling about the area. (*Res. Ex. 9*)
21. Five or six BPD officers began arresting the person identified by Police Officer 1. As this was taking place, the Appellant, who had previously been standing by the traffic island, rapidly approached the arresting officers. As he approached, Officer Evangelista told the Appellant several times to back up but the Appellant continued to approach. (*Testimony of Evangelista, Res. Ex. 9*)

22. Officer Evangelista grabbed the Appellant as he approached, and he immediately brought the Appellant to the ground. Also grabbing the Appellant was Police Officer 2 and possibly one or two other BPD officers. Officer Evangelista's body worn camera was obscured during this arrest and, at some point, it became detached from Officer Evangelista and was knocked to the ground. (*Res. Ex. 9, Testimony of Officer Evangelista*)
23. The Appellant fell to the ground with his hands underneath him, breaking his fall. The police officers pulled his hands behind his back, without any verbal direction or instruction, and put him in handcuffs. (*App. Ex. 4, Res. Ex. 9*)
24. From the first instance of Officer Evangelista telling the Appellant to back up to the Appellant being on the ground in handcuffs took approximately 15 seconds. (*Testimony of Evangelista*)
25. The videos of the event show that no direction was given to the Appellant prior to having his arms forcibly moved behind his back. There had been no admonition from the officers to the Appellant to stop resisting. (*App. Ex. 4, Res. Ex. 9*)
26. At the same time, Police Officer 2 began yelling at the Appellant that he was trying to hit an officer while the Appellant denied this and stated that he wasn't trying to hit anyone. Police Officer 2 appears to be agitated saying, "is that what you do, you fight from behind? We fight from in front. Don't ever fucking try to do that shit again!" Throughout this process the Appellant repeated that he wasn't trying to hit anyone and repeatedly asked if they could just talk. (*Res. Ex. 9*)
27. During this process, while the Appellant is on the ground and in cuffs, Police Officer 2 appears to punch the Appellant multiple times in the torso. (*Res. Ex. 9*)

28. While the Appellant was handcuffed and lying face down on the ground, an unknown officer who is standing next to him kicked the Appellant twice in the ribs with his shod foot.<sup>2</sup> (*App. Ex. 4*)
29. The Appellant was arrested and charged in Roxbury District Court for Assault, Disorderly Conduct, and two counts of resisting arrest. (*Res. Ex. 3*)
30. The Appellant was placed on pre-trial probation and completed twenty hours of court-mandated community services. The charges were dismissed on 1/13/22. (*Res. Ex. 3*)

## LEGAL STANDARD

The role of the Civil Service Commission in original appointment bypass appeals is to determine whether the “appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority”. City of Cambridge v. Civil Service Commission, 43 Mass. App. Ct. 300, 304 (1977). See also Town of Watertown v. Arias, 16 Mass. App. Ct. 331 (1983); McIsaac v Civil Service Commission, 38 Mass. App. Ct. 411 (2000); Police Department of Boston v. Collins, 48 Mass. App. Ct. 411 (2000); City of Leominster v. Stratton, 58 Mass. App. Ct. 728 (2003). Numerous decisions establish that the Commission’s authority does not extend to substituting its judgment for that of an appointing authority. City of Cambridge, 43 Mass. App. Ct. at 304; School Committee of Salem v. Civil Service Commission, 348 Mass. 696, 699 (1965). Massachusetts General Laws chapter 31, § 2(b) provides that “no decision” of a municipal appointing authority “shall be reversed by the commission except upon a finding that such decision was not based upon a preponderance of the

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<sup>2</sup> The BPD stated that they were unaware of an officer kicking the Appellant until video evidence was shown of the incident at the Appellant’s hearing. At my request, the BPD Internal Affairs Division opened an investigation regarding this incident in April of 2025.

evidence on the record.” In order to support a decision to bypass a candidate, however, the appointing authority must provide specific, written reasons – positive or negative, or both, but consistent with basic merit principles – for bypassing a higher-ranking candidate in favor of a lower ranking one. G.L. c. 31, § 27; PAR .08(4).

A person may appeal a bypass decision under G.L. c. 31, § 2(b) for de novo review by the Commission. The Commission’s role is to determine whether the appointing authority has shown by a preponderance of the evidence, that it has “reasonable justification” for the bypass after an “impartial and reasonably thorough review” of the relevant background and qualifications bearing on the candidate’s *present fitness* to perform the duties of the position. Boston Police Dep’t v. Civil Service Comm’n, 483 Mass. 461, 478-78 (2019); Police Dep’t of Boston v. Kavaleski, 463 Mass. 680, 688-89 (2012); Beverly v. Civil Service Comm’n, 78 Mass. App. Ct 182, 187 (2010); Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-28 (2003).

“Reasonable Justification ... means ‘done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law’”. Brackett v. Civil Service Comm’n, 447 Mass. 233, 243 (2006); Commissioners of Civil Service v. Municipal Ct., 359 Mass. 211, 214 (1971), and cases cited. See also Mayor of Revere v Civil Service Comm’n, 31 Mass. App. Ct. 315, 321 (1991) (bypass reasons “more probably than not sound and sufficient”).

The governing statute, G.L. c. 31, gives the Commission’s de novo review “broad scope to evaluate the legal basis for the appointing authority’s action” and it is not necessary that the Commission finds the appointing authority acted “arbitrarily and capriciously.” City of Cambridge v. Civil Service Comm’n, 43 Mass. App. Ct. 300, 303-305, *rev. den.*, 428 Mass. 1102 (1997). The Commission “cannot substitute its judgment about a valid exercise of discretion



based on merit or policy considerations by an appointing authority” but, where there are “overtones of political control or *objectives unrelated to merit standards or neutrally applied public policy*, then the occasion is appropriate for intervention by the Commission.” Id. (emphasis added). See also Town of Brookline v. Alston, 487 Mass. 278 (2021) (analyzing broad scope of the Commission’s jurisdiction to enforce basic merit principles under civil service law).

Law enforcement officers are vested with considerable power and discretion and must be held to a high standard of conduct:

Police officers are not drafted into public service; rather they compete for their positions. In accepting employment by the public, they implicitly agree that they will not engage in conduct which calls into question their ability and fitness to perform their official responsibilities.

Police Comm’s v. Civil Service Comm’n, 22 Mass. App. Ct. 364, 371, *rev. den.*, 398 Mass. 1103 (1986). The Commission generally owes substantial deference to a police department’s decision making, particularly when it comes to hiring police officers. Bos. Police Dep’t v Civil Serv. Comm’n, 483 Mass. 461, 462 (2019) (citing Cambridge v Civil Serv. Comm’n, 43 Mass. App. Ct. at 304-305). But this Commission has regularly held that “[i]n order for an appointing authority to rely on a record or prior misconduct as the grounds for bypassing a candidate, there must be a sufficient nexus between the prior misconduct and the candidate’s current ability to perform the duties of the position to which he seeks employment.” Kodhimaj v. Department of Correction, 32 MCSR 377 (2019).

## ANALYSIS

Due in part to a background investigation that was not sufficiently thorough, the BPD was unable to show, by a preponderance of the evidence, that the Appellant engaged in most of the misconduct that was cited in the bypass letter.

The first reason that the BPD cited for bypassing the Appellant was his driving record. This history primarily consists of warnings; of which a majority were related to transporting his customized vehicle (with modifications) to local car shows, not actual substantive moving violations. The BPD stated in its bypass letter that the ability to “safely operate a vehicle is an essential duty of a Boston Police Officer” and then proceeded to highlight infractions for loud exhaust, dark tint, and modified vehicle height. I do not find this driving history, which has no demonstrated clear nexus to public safety, to constitute reasonable justification to bypass this candidate.

The bypass letter also highlights a Quincy Police incident report that names a person of interest in a possible criminal matter who happened to have a similar name as the Appellant. Similar, but not the same. In doing just a cursory search of the person of interest’s name, I found over 20 individuals, including a pitcher in the Boston Red Sox organization, with a similar name. Further, there is virtually no connection to the Appellant regarding this case; the BPD never questioned him regarding this finding, nor did Quincy Police – yet the BPD included the matter as one of the three primary reasons for bypassing him. The underlying case was eventually closed. The fact that such a serious accusation is presented for the first time in a bypass letter, with absolutely no proof or supporting documentation, I find to be highly irregular. Obviously, finding some mention of someone with a similar name, who may or may not have committed a crime, is not a viable reason to bypass someone.

I now turn to the primary reason for bypass, the confrontation that the Appellant became involved in during November 2020. The bypass letter paints a very different picture than what was shown on body-worn camera footage. The letter states that the Appellant “violently resisted arrest and refused to comply with officers’ instructions to put (his) hands behind (his) back.” The

video footage shows that this is not the case as he is never instructed to move his arms or hands, there is no violent action, and the entire matter is over in a matter of seconds with him face down, on the ground, restrained in cuffs. The only violent behavior I observed in the video offered by the BPD is when the Appellant was punched and kicked after being placed in custody. When the Appellant was asked why he didn't file an abuse of force claim against the BPD, he stated he didn't raise a complaint because he wanted to become a police officer. Also telling is that the ensuing criminal charges were eventually dismissed.

Throughout the video, the Appellant is seen calmly standing off to the side with other "memorial" attendees—discussing and observing the events that were unfolding. He does not appear to be agitated in any way. When the other person is identified and arrested for attacking Police Officer 1, the Appellant briskly walks over to the other officers. He is not running, flailing, or presenting as if he were planning to attack. He is instructed by Officer Evangelista twice to stop and when he doesn't, Officer Evangelista, Police Officer 2, and possibly two other officers tackled the Appellant and brought him to the ground. There is no evidence that the Appellant attempted to throw a punch at any officer as he is taken to the ground or acted aggressively as he is approached, or prior to moving toward the group of officers. I find the Appellant credible in that he approached the officers in an attempt to explain that the person they had in custody was the wrong person. I find it unreasonable and unlikely that a bystander would, by himself and without provocation, suddenly approach a large contingent of police officers to throw a punch or otherwise attack an officer.

The Appellant's bypass letter states: "Police officers must behave in a manner consistent with the law they are sworn to enforce in order to gain and preserve public trust, maintain public confidence, and avoid an abuse of power by law enforcement officials. As a result, your poor

conduct and poor judgement deem you unsuitable for employment as a Boston Police Officer.”

The evidence presented by the BPD does not show that that the Appellant engaged in the type of misconduct indicative of someone who, if appointed, would violate the public’s trust. In fact, the evidence presented to me raises serious questions regarding whether one of the responding officers adhered to the high standards required of incumbent police officers.

## **Conclusion**

For all of the above reasons, the Appellant’s appeal under Docket No. G1-25-021 is hereby *allowed*. Pursuant to the Commission’s authority under Chapter 310 of the Acts of 1993, the Commission hereby orders the following:

- HRD shall place the name of the Appellant at the top of any current or future certification for the position of permanent full-time police officer in the Boston Police Department until he is given one additional consideration for appointment.
- If the Appellant is appointed as a Boston Police Officer, he shall receive the same civil service seniority date as the candidate appointed from Certification No. 09448. This date is for civil service purposes only and is not intended to provide the Appellant with any additional compensation or benefits, including creditable service toward retirement.
- Once the Appellant has been provided with the relief ordered above, the Department shall notify the Commission, with a copy to the Appellant, that said relief has been provided. After verifying that the relief has been provided, the Commission will notify HRD that the Appellant’s name should no longer appear at the top of future certifications.

Civil Service Commission

/s/Shawn C. Dooley  
Shawn C. Dooley  
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney, and Stein, Commissioners) on September 18, 2025.

Either party may file a motion for reconsideration within ten days of 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 to:

James Gilden, Esq. (for Appellant)

Joseph A. McClellan, Esq.. (for Appellant)

Melinda Willis, Esq. (HRD)

Regina Caggiano (HRD)