

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

TIMOTHY FLOOD,
Appellant
v.

Case No.: G1-12-23

TOWN OF WAYLAND,
Respondent

ORDER OF DISMISSAL

On January 20, 2012, the Appellant filed the instant appeal with the Civil Service Commission (Commission), contesting his non-selection for the position of police officer in the Town of Wayland (Town).

On January 26, 2012, the Commission sent both parties notice regarding a pre-hearing conference scheduled for February 28, 2012.

On February 28, 2012, counsel for the Town appeared at the offices of the Commission for the pre-hearing conference. The Appellant failed to appear and did not contact the Commission regarding his non-appearance. The Commission issued an order to show cause why the appeal should not be dismissed for want of prosecution.

On March 7, 2012, the Commission received a response from the Appellant indicating that he failed to appear for the February 28th pre-hearing conference as a result of ongoing family medical issues.

On March 8, 2012, the Commission sent both parties notice regarding a re-scheduled pre-hearing conference scheduled for April 3, 2012 at 9:30 A.M.

On April 3, 2012, counsel for the Town appeared at the offices of the Commission at approximately 9:20 A.M. Shortly before 9:30 A.M., the Appellant called this Commissioner and stated that he was "on his way". I advised him that the Commission was on a tight schedule. As of 10:15 A.M., the Appellant had still failed to appear. Counsel for the Town was excused. At 10:30 A.M., the Appellant appeared at the offices of the Commission and stated that he had difficulty getting into a local parking garage. I advised him that counsel for the Town had been excused and that the Commission would likely dismiss his appeal based on a failure to prosecute. The Appellant filed a written statement before leaving the offices of the Commission which I have reviewed.

The Appellant failed to appear at a pre-hearing conference and did not notify the Commission that he would not appear. He then appeared an hour late for a re-scheduled pre-

hearing conference. As such, he has failed to prosecute his appeal. For this reason, his appeal should be dismissed.

The Commission also takes notice that, even if the instant appeal had not been dismissed for lack of prosecution, the likelihood of the Appellant prevailing in his appeal appears remote, at best. Among the numerous reasons for bypass was that the Appellant was terminated as a civilian police officer for the United States Army. Again according to the written reasons for bypass, the Appellant appealed that termination and it was subsequently upheld by the United States Court of Appeals for the Federal Circuit on August 5, 2010. There are numerous other reasons articulated for the bypass according to the Town, including a decision by the Rockland Police Department to suspend the Appellant's license to carry a firearm based on criminal charges against the Appellant related to alleged domestic violence and other threats of violence.

The Appellant's appeal under Docket No. G1-12-23 is hereby *dismissed*.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Marquis, McDowell and Stein, Commissioners) on April 19, 2012.

A True Record. Attest:

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)(1), 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 to:

Timothy Flood (Appellant)
Sandy Curko, Esq. (for Respondent)
John Marra, Esq. (HRD)