

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114
(617) 979-1900

CHRISTOPHER FOLKES,
Appellant

v.

BOSTON POLICE DEPARTMENT,
Respondent

Docket Number: G1-23-241

Appearance for Appellant: *Pro Se*
Christopher Folkes

Appearance for Respondent: James J. Megee, Esq.
Boston Police Department
One Schroeder Plaza
Boston, MA 02114

Commissioner: Christopher C. Bowman

SUMMARY OF DECISION

The Commission dismissed the bypass appeal of the Appellant based on the undisputed fact that he failed to meet the medical standards related to eye examinations required of police officers.

DECISION ON RESPONDENT'S MOTION TO DISMISS

On November 30, 2023, Christopher Folkes (Appellant), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Boston Police Department (BPD) to bypass him for original appointment to the position of police officer. On January 16, 2024, I held a remote pre-hearing conference which was attended by the Appellant and counsel

for the BPD. The BPD subsequently filed a motion to dismiss, and the Appellant did not submit an opposition.

UNDISPUTED FACTS

Based on the information submitted and the statements made at the pre-hearing, the following is not disputed, unless otherwise noted:

1. On March 17, 2022, the Appellant took the civil service examination for police officer.
2. On July 1, 2022, the state's Human Resources Division (HRD) established an eligible list for police officer.
3. Between September 2022 and January 2023, HRD issued Certification No. 08848 to the BPD upon which the Appellant was ranked 66th among those willing to accept appointment.
4. The BPD, after conducting a background investigation, issued the Appellant a conditional offer of employment for the position of police officer, contingent on multiple conditions, including successful passage of a medical examination as required by [Section 61A of Chapter 31](#) and [HRD's Initial Hire Medical and Physical Ability Test Standards and Physician's Guide](#) (Medical Guidelines).
5. The BPD subsequently rescinded the Appellant's conditional offer of employment after a BPD-contracted physician concluded that the Appellant failed to meet the medical guidelines as they relate to the vision standards.
6. The Appellant's non-selection constituted an appealable bypass as one or more candidates ranked below him on the certification were appointed.

MOTION FOR SUMMARY DISPOSITION STANDARD

An appeal may be disposed of on summary disposition when, "viewing the evidence in the light most favorable to the non-moving party", the undisputed material facts affirmatively

demonstrate that the non-moving party has “no reasonable expectation” of prevailing on at least one “essential element of the case”. See, e.g., Milliken & Co., v. Duro Textiles LLC, 451 Mass. 547, 550 n.6 (2008); Maimonides School v. Coles, 71 Mass. App. Ct. 240, 249 (2008); Lydon v. Massachusetts Parole Board, 18 MCSR 216 (2005).

RELEVANT CIVIL SERVICE LAW

Section 61A of Chapter 31 states in relevant part that:

No person appointed to a permanent, temporary or intermittent, or reserve police or firefighter position ... shall perform the duties of such position until he shall have undergone initial medical and physical fitness examinations and shall have met such initial standards. The appointing board or officer shall provide initial medical and physical fitness examinations. If such person fails to pass an initial medical or physical fitness examination, he shall be eligible to undergo a reexamination within 16 weeks of the date of the failure of the initial examination. If he fails to pass the reexamination, his appointment shall be rescinded. No such person shall commence service or receive his regular compensation until such person passes the health examination or reexamination.

ANALYSIS

Based on the undisputed facts, an initial medical examination conducted by a BPD-contracted physician concluded that the Appellant failed to meet the medical standards as they relate to the vision examination. The Appellant does not dispute that he failed the vision portion of the medical examination, nor does he argue that he would pass a re-examination. As part of the pre-hearing conference, the BPD voluntarily agreed to provide the Appellant with 45 additional days (until March 8, 2024) to report to the BPD and the Commission with correspondence from medical professionals regarding whether corrective procedures are available that would allow him to meet the HRD medical standards related to vision and, if so, what steps the Appellant had taken to initiate such corrective procedures. The Appellant failed to

report back to the BPD or the Commission on or before March 8, 2024. On May 9, 2024, the Appellant forwarded an email to the Commission citing time constraints related to personal matters for not reporting back to the BPD or the Commission. As of the date of this decision, the Commission has received no evidence that the Appellant has taken any action related to this matter.

In short, the Appellant failed the vision portion of the medical examination and, despite being provided with additional time to determine if any corrective procedures would allow him to pass a re-examination, opted not to do so. As the Appellant has not met the medical guidelines required to a police officer in Massachusetts, the BPD was required to rescind his conditional offer of employment.

CONCLUSION

The Appellant's appeal under docket number G1-23-241 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chair

By a vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney and Stein [Markey – Absent]) on July 11, 2024.

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 to:
Christopher Folkes (Appellant)
James Megee, Esq. (for Respondent)