

Decision mailed: 7/18/11  
Civil Service Commission 

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, SS.

**CIVIL SERVICE COMMISSION**

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

PHILIP GAFFEY,  
Appellant

v.

C-11-126

DEPT. OF REVENUE,  
Respondent

Appellant's Attorney:

Philip Gaffey, *Pro Se*

Respondent's Attorney:

Julayne M. Lazar, Esq.  
Department of Revenue  
100 Cambridge Street, Suite 660  
P.O. Box 9557  
Boston, MA 02114-9557

Commissioner:

Daniel M. Henderson

**DECISION**

Pursuant to G.L. c. 30, §49, the Appellant, Philip Gaffey, (hereinafter "Appellant"), is appealing the February 22, 2011 decision of the Human Resources Division (hereinafter "HRD") denying his request for reclassification from the position of Child Support Enforcement Specialist (hereinafter "CSES") A/B to the position of CSES C. The Department of Revenue, (hereinafter "DOR") had previously denied the request for reclassification. The Appellant filed a timely appeal on April 12, 2011 and a hearing was held on June 6, 2011 at the offices of the Civil Service Commission (hereinafter

“Commission”). The hearing was digitally recorded. The DOR filed a post-hearing proposed decision.

**FINDINGS OF FACT:**

Fourteen (14) exhibits and a stipulation of facts were entered into evidence at the hearing. Based on the documents submitted into evidence and the testimony of:

*For the Appointing Authority:*

- Mr. Paul M. Cronin (hereinafter “Mr. Cronin”), Associate Deputy Commissioner for the Child Support Enforcement Division of Department of Revenue (hereinafter “DOR”);
- Ms. Sandra Antonucci (hereinafter “Ms. Antonucci”), Program Coordinator III for Human Resources Bureau (hereinafter “HRB”) of DOR;

*For the Appellant:*

- Mr. Philip Gaffey, Child Support Enforcement Specialist A/B for DOR;

**I make the following findings of fact:**

1. The Appellant is employed and classified as a CSES A/B in the Child Support Enforcement Group of the Child Support Enforcement Division of DOR.  
(Stipulated fact)
2. Appellant has been a CSES A/B since February 11, 2003. (Exhibit 5)
3. The primary purpose of the Child Support Enforcement Division is to establish paternity, establish child support and medical support orders and to enforce and modify those orders. (Testimony of Cronin)
4. In addition to the Appellant, the Child Support Enforcement Group is staffed by the following individuals: Dwight Pickett (Team Leader), Barry Spillane (CSES

- C), Lilian Cueva-Dina (CSES C), Jean Corbett (CSES C), Dawn Anderson (CSES C), Richard Williamson (CSES C) and David Witney (CSES C). (Exhibit 10)
5. All of these employees in a CSES C role in the Child Support Enforcement Group perform the duties of a CSES A/B or that of a “case owner”. (Testimony of Cronin, Antonucci and Appellant)
  6. Although, the other employees in his unit performing similar functions are CSES C’s; The DOR has a policy and practice of not demoting employees who under assigned or performing duties below their position classification. They are in effect “grandfathered” in the higher classification. (Testimony of Antonucci)
  7. The primary function of a CSES A/B is as a case owner. It is a non-supervisory role that involves managing and monitoring a case progress. CSES A/B determines what actions need to be taken by DOR to establish paternity, and enforce orders. (Testimony of Cronin; Exhibit 1).
  8. A CSES C is a “first-level supervisor and/or non-supervisory employee[] performing the most complex assignments.” (Exhibit 1)
  9. First-level supervision is of employees in the CSES A/B role and involves “assigning and directing the activities of reporting staff and appraising their performance.” (Exhibit 1)
  10. In order to be considered a non-supervisory employee capable of being a CSES C, employee must demonstrate “exception mastery of technical job content beyond the usual competency level and perform functions considered complex for the series. They provide consultation and guidance to colleagues.” An example of a

role meeting this requirement is the Child Support Training Specialist position.

(Exhibit 1)

11. Appellant spends approximately 30% of his time reviewing cases and requesting any necessary documentation; 30% of his time reviewing received documentation to determine what type of referral is needed; 25% of his time monitoring cases for submission of documentation, responses from other agencies and closing cases; and he spends about 15% of his time responding to customer and other state agency inquiries, assisting in relocation of parents and reviewing policy and procedure updates. (Exhibit 5).
12. Appellant admitted that he does not perform supervisory duties and is not a training specialist. (Testimony of Appellant)
13. The Appellant claimed that his case load has been substantially increased over the past several years. However, Sandra Antonucci testified that all DOR employees have had their work load substantially increased due to State fiscal restraints resulting in fewer new hires to replace retirees. She also stated that increased work load is not a basis for reclassification. (Testimony of Gaffey and Antonucci)
14. The Appellant has performed his duties and responsibilities as a Child Support Enforcement Specialist A/B at a very high level, according to his EPRS's for 2010 and 2011. His performance is respected and appreciated by his supervisors. However, even a very high level of performance in this position does not qualify him for reclassification to the higher position. (Exhibits 11 & 12, testimony of Gaffey and Antonucci)

15. On July 22, 2010, Appellant initiated his request for reclassification by e-mailing Ms. Susan E. Montgomery-Gadbois of DOR HR Bureau. (Exhibit 2)
16. On August 19, 2010, Appellant sent written request for reclassification along with a completed interview guide to Ms. Antonucci. (Exhibits 3 and 5)
17. On October 15, 2010, a conference call took place regarding the reclassification request. (Exhibit 4)
18. On October 29, 2010, HR Bureau sent preliminary denial letter to Appellant. (Exhibit 6)
19. On November 15, 2010, HR Bureau received Appellant's rebuttal letter. (Exhibit 7)
20. On December 1, 2010, HR Bureau issued its final decision denying Appellant's reclassification request. (Exhibit 8)
21. On February 4, 2011, Appellant requested an appeal of HR Bureau's decision with HRD.
22. On February 22, 2011, HRD denied Appellant's appeal request.

## **CONCLUSION**

Based on testimony and documentary evidence, Appellant has not met his burden of proof to demonstrate that he was improperly classified as a CSES A/B. The burden the Appellant must meet is that he has performed the duties, including the "level distinguishing duties" of a CSES C more than 50% of the time, on a regular basis. Specifically, the Appellant did not show that he performs supervisory duties or expert assignments. In addition, the Appellant did not show that he is a certified trainer; being

such, an employee can be classified a C without supervisory duties through providing highly specialized training to other employees. Although the Appellant does offer his help to new members of his department, he does not provide the formalized training that is required for a C level classification. Gaffey could have also shown that reclassification is appropriate if he performed in "working groups" more than 50% of the time. The working groups create policy and the Appellant does not perform this function. He is not a member of a working group.

Appellant notes that everyone else in the seven member case establishment unit is classified as a C, but when reviewing reclassification appeals, the employer only looks at the duties of the appellant. The fact that the Appellant's co-workers may be working below grade or misclassified does not entitle the Appellant to the reclassification request. The Appellant also testified to a significant increase in case load, however, an increase in workload does not constitute a reclassification. The entire Department has increased its work load due to the non-hiring to fill vacancies for fiscal reasons.

By all accounts the DOR witnesses affirmed that the Appellant is considered to be valuable, reliable and productive employee and much appreciated by the Department.

For all of the above reasons, the Appellant's request for reclassification is denied and the Appellant's appeal under Docket No. C-11-126 is hereby *dismissed*.

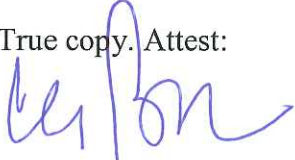
Civil Service Commission



Daniel M. Henderson  
Commissioner

By a vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, and Stein, Commissioners) [McDowell not participate] on July 14, 2011.

A True copy. Attest:



\_\_\_\_\_  
Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(I), the motion must identify a clerical or mechanical error in the 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 a Civil Service Commission's final decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:

Philip Gaffey

Julayne M. Lazar, Atty. (for Appointing Authority)

John Marra, Atty. HRD