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COMMONWEALTH OF MASSACHUSETTS

21 2008

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION
No. 07-4189-A

Notice sent
11/21/2008
K. H. A.
B. & D.
L. J. P.
C. L. & P.
R. L. Q., JR.

ROBERT GRINHAM,

Plaintiff

(sc)

v.

MASSACHUSETTS CIVIL SERVICE COMMISSION, et al,
Defendants

COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

2008 NOV 26 A 10:13

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MEMORANDUM AND ORDER ON THE PLAINTIFF'S MOTION
FOR JUDGMENT ON THE PLEADINGS AND THE CROSS-MOTION OF
THE CIVIL SERVICE COMMISSION AND OF THE TOWN OF EASTON FOR
JUDGMENT ON THE PLEADINGS PURSUANT TO MASS. R. CIV. P. 12(C)

This case grows out of certain incidents which occurred on the early morning of Saturday, April 23, 2003 wherein the plaintiff, Robert Grinham, then a Sergeant on the Easton Police Department violently and continuously beat a prisoner in his custody; filed a false report concerning the incident, and used his position as a sergeant to attempt to intimidate and influence two junior officers not to write truthful reports. A brief summary of the violence used by Robert Grinham against the prisoner who never took any physical action or made any threat to him is set out in detail in the testimony of Easton Police Officer Golden's testimony contained in the Town of Easton

Hearing Transcript of June 17, 2003 on pp. 157-159.¹

Sergeant Grinham was placed on administrative leave with pay, by the Town of Easton, and hearings were held on the charges before Ms. Martha L. White, Town Administrator, on Friday, June 17, 2005. On August 5, 2005, Ms. White, the hearing officer, issued her Disciplinary Decision, and in part wrote as follows:

Grinham's misconduct in this matter was not only excessive, but abhorrent. He engaged in a completely unnecessary attack on a defenseless prisoner who posed no legitimate threat to him or to his fellow officers. He then used his position as a Sergeant to attempt to get two subordinate officers to cover up for him. He lied about what occurred. His conduct was such that two fellow officers were compelled to report it. Simply put, Grinham has so violated his obligations as an Easton Police Sergeant and police officer that he can no longer be allowed to wear a badge as a representative of the Easton Police Department and our community.

Grinham was ordered discharged by Town Administrator Martha L. White on August 5, 2005.

Grinham in turn appealed his termination to the Massachusetts Civil Service Commission, who referred the hearing to Administrative Magistrate Maria A. Imparto of the Division of Administrative Law Appeals. De novo hearings were held over five days. Administrative Magistrate Imparto rendered her Recommended

¹ The portions of the testimony referred to is also quoted in the Disciplinary Decision Re: Sergeant Robert Grinham by Ms. Martha L. White, Town of Easton, Administrator, on pages 12 to 15 in the Administrative Record and dated August 5, 2005.

Decision to the Civil Service Commission on July 16, 2007. The Civil Service Commission voted to adopt the Recommended Decision of Magistrate Imparto and dismissed Grinham's appeal on August 23, 2007. On September 25, 2007, Grinham filed his appeal in the Superior Court pursuant to ch. 31, § 44 and ch. 30A, § 14.

DISCUSSION

In police discipline cases, the Civil Service Commission must determine "whether, on the basis of the evidence before it, the appointing authority had sustained its burden of providing that there was a reasonable justification for the action taken by the appointing authority." City of Cambridge v. Civil Service Commission, 43 Mass. App. Ct. 300, 303 (1997). "The question before the Commission is not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the Commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the Commission to have existed when the appointing authority made its decision" Police Department of Boston v. Collins, 48 Mass. App. Ct. 408, 411, n. 5 (2000), Watertown v. Aria, 16 Mass. App. Ct. 331, 334 (1983).

In reviewing the decision, the Court must be highly deferential to the Commission on questions of fact and reasonable inferences drawn therefrom. The Court may not make new

determinations of facts or make different credibility choices. Zoning Bd. of Appeals v. Housing Appeals Comm'n., 385 Mass. 651, 657 (1982).

The Commission's decision must be justified, that is be based upon adequate reasons sufficiently supported by credible evidence. A Commission's decision is justified if it is supported by substantial evidence. "Substantial evidence is such evidence as a reasonable mind might accept as adequate to support a conclusion." Singer Sewing Machine Co. v. Assessors of Boston, 341 Mass. 513, 517 (1960).

A hearing was held on October 31, 2008 on these Cross-motions for Judgment on the Pleadings under Mass. R. Civ. P. 12(c). This Court has read all submissions by the parties, and has read the entire Administrative Record in this case, which consists of 1062 pages.

After consideration, this Court finds that there is far more than enough substantial evidence to support the findings and decision of the Civil Service Commission. The evidence is literally overwhelming in support of the findings and decision of the Civil Service Commission in its dismissal of the plaintiff's appeal and upholding the Town of Easton's decision to dismiss Grinham from his position as a police sergeant.

This Court finds that there were no constitutional violations in the procedures followed by the Town of Easton and

the Civil Service Commission and that the decisions of the Civil Service Commission and the Appointing Authority, the Town of Easton, were not arbitrary or capricious. The Civil Service Commission and Town of Easton did not commit any abuse of discretion, acted in accordance with the law, and were fully justified by the law and the facts in their decisions.

ORDERS

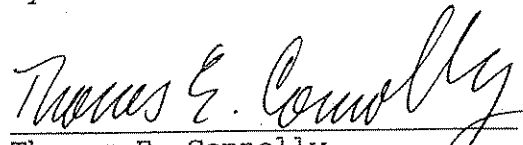
Motion for Judgment on the Pleadings pursuant to Mass. R. Civ. P. 12(c) by the Defendant, Civil Service Commission and the Defendant, Town of Easton, as the appointing authority is

ALLOWED.

The decisions of the Civil Service Commission and the Town of Easton are AFFIRMED.

Motion for Judgment on the Pleadings pursuant to Mass. R. Civ. P. 12(c) by the plaintiff, Robert Grinham, is DENIED.

By the Court,


Thomas E. Connolly
Justice of the Superior Court

Date: *November 20, 2008*