

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street , Suite 200

Boston, MA 02114

617-979-1900

NAHOM HAILE,

Appellant,

v.

BOSTON POLICE DEPARTMENT,

Respondent.

Docket number:

G1-25-029

Appearance for Appellant:

James Gilden, Esq.

173 N. Main Street

Sharon, MA 02067

Appearance for Respondent:

Jennifer Cipolletti, Esq.

Boston Police Department

Office of the Legal Advisor

One Schroeder Plaza

Boston, MA 02120

Commissioner:

Shawn C. Dooley

SUMMARY OF DECISION

The Commission allowed the bypass appeal of a candidate seeking appointment as a Boston police officer as the Department failed to show that the candidate engaged in the underlying alleged misconduct that formed the basis for the Department's concerns.

DECISION

On January 27, 2025, the Appellant, Nahom Haile (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 permanent, fulltime police officer. On March 4, 2025, the Commission held a remote pre-hearing conference. On May 20, 2025, I conducted a full in-person hearing. The hearing was recorded via the Webex videoconferencing platform, and copies were provided to both parties.¹ The Appellant and the Respondent both filed proposed decisions. For the reasons set forth below, the Appellant's appeal is granted.

FINDINGS OF FACT

The BPD submitted into evidence four exhibits. ("Ex.") The Appellant did not submit any exhibits. Based on the documents submitted and the testimony of the following witnesses:

Called by the BPD:

- Detective Bruce Higgins ("Det. Higgins"), detailed to the Recruit Investigations Unit, Boston Police Department
- Teori Shaw-Boyce ("Ms. Shaw-Boyce"), Deputy Director of Human Resources, Boston Police Department

Called by the Appellant:

- Nahom Haile, Appellant

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

1. On March 18, 2023, the Appellant took the written examination for police officer. [*Stipulated*

¹ 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.

Fact]

2. On June 1, 2024, the state's Human Resources Division (HRD) established the eligible list for Boston police officer. [*Stipulated Fact*]
3. On June 28, 2024, HRD issued Certification # 09999 to the BPD. The Appellant was ranked 69th among those willing to accept appointment. [*Stipulated Facts*]
4. In all, 117 candidates were selected for appointment, 34 of whom were ranked below the Appellant. [*Stipulated Facts*]
5. On January 13, 2025, the BPD notified the Appellant that he had been bypassed for appointment for the position of Police Officer with the Boston Police Department. The reasons stated related to an interview the BPD investigator had with a former romantic partner of the Appellant who told the BPD that the Appellant had a bit of a temper; that the Appellant had grabbed her by the wrists during verbal arguments; and that the Appellant had recently called and told her that he would "know" if she provided any negative information about him to the BPD. [*Ex. 3, R0015*]

BPD Background Investigation

6. As part of the Appellant's application to become a Boston Police Officer, Detective Bruce Higgins of the Boston Police Department's Recruit Investigations Unit conducted a background investigation of the Appellant. [*Testimony of Det. Higgins (13:24)*]
7. After completing his investigation, Detective Higgins prepared a Privileged and Confidential Memorandum ("PCM") on the Appellant. [*Testimony of Det. Higgins (13:39)*]
8. Detective Higgins determined that the Appellant did not have a criminal record; nor were there any negative entries on his driving record. [*Testimony of Det. Higgins (22:28); Ex. 1, "PMC", R0002-0003*]
9. Detective Higgins contacted three of the Appellant's neighbors, all of whom indicated that the

Appellant was a “nice” or “good” individual. None disclosed any instances of the Appellant displaying violent tendencies. [*Ex. 1, PMC, R0002-0003*]

10. Detective Higgins contacted the Appellant’s current and former employers. Except for one supervisor who said that the Appellant could get a little overwhelmed at times, all his employers offered a wholly positive reference and did not mention any instances of the Appellant displaying violent tendencies. [*Testimony of Det. Higgins; Ex. 1, PMC, R0004-0005*]
11. All three personal references stated that the Appellant would make a good police officer and none alluded to any instances of the Appellant displaying violent tendencies. [*Ex. 1, PMC, R0007-0008*]
12. A university that the Appellant attended (for three semesters) reported no significant disciplinary matter involving the Appellant. [*Testimony of Det. Higgins (26:05); Ex. 1, PMC, R0003*]
13. Detective Higgins also contacted S.A., an individual with whom the Appellant had been in an on-again, off-again relationship with for about two years (described by Appellant as a “situationship”).² [*Testimony of Det. Higgins (24:48); Ex. 1, PCM, R0006*]
14. Detective Higgins initially contacted S.A. on September 14, 2024, and after leaving two or three messages, S.A. called him back. [*Testimony of Det. Higgins (15:09); Ex. 1, PCM, R0006*]
15. During the telephone call, S.A. was reluctant to answer questions, but she stated that the Appellant had a “bit of a temper” [*Testimony of Det. Higgins (15:57); Ex. 1, PCM, R0006*]; that there were “not really” any domestic violence issues [*Testimony of Det. Higgins (16:18); Ex. 1, PCM, R0006*]; but there were “times” that the Appellant grabbed her by the wrists and asked her to stay in his dorm room and, as a result, she had bruises [*Testimony of Det. Higgins (16:38)*];

² As part of the hiring process, BPD applicants are required to identify former relationship partners and the Appellant elected to list S.A. [*Testimony of Ms. Shaw Boyce (58:12)*]

Ex. 1, PCM, R0006]; and that Appellant contacted her before the interview and asked her to speak honestly, but if there was a bad report he would know it would have come from her [*Testimony of Det. Higgins (17:55); Ex. 1, PCM, R0006*].

16. Detective Higgins arranged a home visit with the Appellant for September 19, 2024. [*Testimony of Det. Higgins (14:17); Ex. 1, PCM, R0006*]

17. During the home visit, the Appellant again described his relationship with S.A. as a “situationship.” [*Testimony of Det. Higgins 18:44); Ex. 1, PCM, R0006*]

18. During the home visit, the Appellant denied that there was any domestic violence in his relationship with S.A. [*Ex. 1, PCM, R0006*]

19. At the request of Detective Higgins, the Appellant clarified his relationship with S.A. in an e-mail he sent to Detective Higgins on September 21, 2024. [*Testimony of Det. Higgins 18:56; Ex. 2, Appellant’s e-mail, R0012*]

20. After the BPD’s roundtable requested further clarification about the Appellant’s relationship with S.A., Detective Higgins followed up with an additional “discretionary interview” with the Appellant. [*Testimony of Det. Higgins (19:29); Ex. 1, PCM, R0006*]

21. During this discretionary interview, the Appellant stated that he told S.A. to talk freely to the investigator and asked her to say good things about him [*Testimony of Det. Higgins (20:05); Ex. 1, PCM, R0006*]; but he denied that he told S.A. that if he got a “bad report” he knew it would have come from her [*Testimony of Det. Higgins (20:29)*]. The Appellant also stated that he called S.A. after her interview with Detective Higgins but that she didn’t return his call [*Ex. 1, PCM, R0006*]; he then continued to deny that he engaged in any physical, mental, or verbal abuse of S.A. [*Testimony of Det. Higgins (20:41); Ex. 1, PCM, R0006*]; and further denied grabbing her wrists [*Testimony of Det. Higgins (20:51)*].

22. Detective Higgins reached out to S.A. prior to the May 20, 2025 evidentiary hearing to ask her if she wanted to testify, but she “didn’t want to be a part of it.” [*Testimony of Det. Higgins (21:59; 32:50)*].

The BPD’s Decision-making Process

23. Teori Shaw-Boyce is the deputy director of human resources at the BPD and is responsible for overseeing the hiring process regarding police officers. Interested candidates attend an orientation and are interviewed by a detective. A detective is then assigned to perform a background investigation on each applicant. Upon completion, the detective presents the results of the investigation to the BPD roundtable. [*Testimony of Ms. Shaw-Boyce (36:58)*]

24. As referenced above, the Appellant’s candidacy was discussed at the roundtable and he was then given a discretionary interview. After the discretionary interview, the BPD decided to bypass the Appellant for appointment. [*Testimony of Ms. Shaw-Boyce (39:44)*]

25. The roundtable was concerned about the Appellant’s relationship with S.A. and determined that his alleged behavior could lead to issues regarding abuse of power, trust within the community, and remaining calm in stressful situations. [*Testimony of Ms. Shaw-Boyce (41:42); Ex. 3, Bypass Letter dated January 13, 2025, R0014*]

26. The BPD’s January 13 bypass letter stated that the Appellant’s “prior conduct and poor judgment” with respect to his relationship with S.A. and the “untruthfulness identified in [his] application” deemed him “unsuitable for employment as a Boston Police Officer.” [*Testimony of Ms. Shaw-Boyce (39:44); Ex. 3, Bypass Letter dated January 13, 2025, R0014*]

27. Ms. Shaw-Boyce confirmed that the BPD’s negative determination regarding Appellant’s fitness to serve as a police officer was based primarily on S.A.’s allegations. She identified no other bases for a bypass. [*Testimony of Ms. Shaw-Boyce*]

28. More specifically, Ms. Shaw-Boyce confirmed that the BPD's precise concerns regarding the Appellant related to: (1) one incident of alleged "violence" involving S.A. (grabbing her wrists); (2) her report that he has a bit of a temper; (3) the allegation that he tried to keep S.A. from leaving his room; and (4) that he allegedly told S.A. if he got a "bad review" he knew it would have come from her. [*Testimony of Ms. Shaw-Boyce (55:28)*]

APPLICABLE CIVIL SERVICE LAW

The authority to bypass a candidate for an appointment as a police officer is governed by G.L. c. 31, § 27. Original and promotional appointments of civil service employees are made from a list of candidates, called a "certification", whose names are drawn in the order in which they appear on the applicable civil service "eligible list", using what is called the 2n+1 formula. G.L. c. 31, §§ 6 through 11, 16 through 27; Personnel Administration Rules, PAR.09. An appointing authority must provide specific, written reasons (positive or negative, or both—consistent with basic merit principles) for bypassing a higher ranked candidate in favor of a lower ranked 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. 474, 478 (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, 543 (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 core objective of Massachusetts civil service law is to enforce “basic merit principles” for “recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills” while “assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.” G.L. c. 31, § 1. See, e.g., Mass. Ass’n of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 259 (2001); MacHenry v. Civil Serv. Comm’n, 40 Mass. App. Ct. 632, 635 (1995), rev. den., 423 Mass. 1106 (1996).

ANALYSIS

The BPD has not shown, by a preponderance of the evidence, that there was reasonable justification to bypass the Appellant for appointment as a police officer, as the department has not proven that the Appellant engaged in the alleged behavior that formed the basis for the bypass here.

The BPD’s decision was based almost entirely on statements from S.A., an individual in a prior relationship (referred to as a “situationship”) with the Appellant, who made allegations against the Appellant in the course of the BPD’s background investigation. The most damaging allegation is that the Appellant grabbed her wrists to try to stop her from leaving his dorm room, which on at least one occasion left bruises. No evidence in this record shows, however, that S.A. reported this alleged incident to anyone around the time it purportedly occurred. Reportedly, S.A. also advised Detective Higgins that Appellant had “a bit of a temper” and alleged that the Appellant had told her in a phone call prior to Detective Higgins’s conversation with her that if the Appellant received a

bad report he would know it would have come from her. These allegations came from an interview that BPD's investigator, Detective Bruce Higgins, conducted with S.A. by phone. However, when Detective Higgins attempted to convince S.A. to testify before the Commission, she declined. Although I do not discount the gravity of S.A.'s allegations as recounted to Detective Higgins and the seriousness of claims of domestic violence, I had no opportunity to determine S.A.'s credibility or the truthfulness of her allegations as she did not appear at the Commission's *de novo* hearing. Moreover, Detective Higgins did not record his phone interview of S.A.; nor did he attempt to secure a sworn statement (or even a confirmatory email) from S.A. attesting to the statements he attributed to her in his PCM.

S.A.'s allegations stand in stark contrast to the testimony of the Appellant. The Appellant testified at the hearing, and I find his testimony credible, that he was in an approximately two-year on-again, off-again relationship with S.A. that he referred to as a "situationship." He attempted to convince S.A. to enter into a more conventional relationship, but she demurred, and they stopped communicating. When the Appellant filled out his application to become a police officer with the BPD, he listed his relationship with S.A. on the form. He reached out to S.A. to let her know of this disclosure, asking her to speak truthfully to the investigator, and to "put in a good word for me." Although an applicant is required to disclose any and all prior and current romantic relationships, I find it compelling that Appellant elected to list S.A. on the application given the informality of the relationship and his testimony that (notwithstanding her subsequent allegations) he had no reason to think she would have anything negative to say about him. I perceived the Appellant to be very genuine, honest, and forthcoming in his testimony before me.

The Appellant flatly denied several statements that S.A. made to Detective Higgins, including her allegations that he grabbed her by the wrists and asked her to stay in his dorm room, which resulted in bruises to her wrists. He also denied that when he called her before she spoke to

Detective Higgins he allegedly said that he would know where any bad review came from. The Appellant denies any physical violence towards S.A. In the absence of either countervailing corroborating evidence of misconduct or a conflicting statement subjected to further scrutiny, I deem the Appellant's testimony worthy of credence.

S.A.'s allegations are in marked contrast to the great majority of findings in the background investigation of Appellant conducted by Detective Higgins, which are laudatory. The investigator found that the Appellant did not have a criminal record and his driving record at the Massachusetts Registry of Motor Vehicles was clean. Three of Appellant's neighbors who were contacted by Detective Higgins gave the Appellant a good reference; and they all indicated that Appellant was a "nice" or "good" individual. All of the Appellant's current and former employers gave the Appellant a good reference and none of them mentioned that Appellant had any violent tendencies. Similarly, all three of Appellant's personal references gave him a good reference, and none of them mentioned that he had any violent tendencies. All three personal references believed that Appellant would make a good police officer. A representative from the University of Massachusetts/Amherst, where the Appellant attended college for three semesters, advised that there were no significant disciplinary issues concerning the Appellant. Detective Higgins testified that even S.A. stated to him that she didn't feel threatened by the Appellant; that the Appellant told her to tell the truth to the investigator; and that S.A. didn't want to be the reason the Appellant was denied employment as a BPD officer. Aside from S.A.'s allegations relayed in a phone call, there is no evidence that the Appellant had any violent tendencies or engaged in any incidents of domestic abuse.³

³ While being an exemplary neighbor, friend, employee, and citizen certainly does not eliminate the possibility of a person being abusive within a purely domestic relationship, the sum total of evidence of good behavior on the Appellant's part does detract from the weight I am prepared to give to allegations stemming only from a non-recorded phone interview unsupported by any testimony, written statement, or other evidence.

In sum, the entirety of the record evidence, coupled with my own assessment of the Appellant during the hearing I conducted, leads me to grant credence to his testimony. In weighing the preponderance of credible evidence, I cannot conclude that the BPD proved he engaged in disqualifying misconduct. Accordingly, reasonable justification for a bypass is lacking in this case.

Two other issues also need to be addressed. First, I discount the reference in the bypass letter related to alleged untruthfulness. Neither the bypass letter nor witness testimony developed the grounds for this assertion, which appear to relate to the Appellant denying any physical, mental, or verbal domestic abuse issues during his discretionary interview. As I deem credible the Appellant's denial of any physical abuse of S.A., I also find any related references to alleged untruthfulness to be unsupported. Indeed, not only did the Appellant list S.A. as a former relationship partner on his application, he also requested that S.A. tell the truth when she spoke to the investigator. No other evidence of the Appellant allegedly being untruthful was unearthed during the background investigation.

Second, the fact that the BPD found that the Appellant has a "bit of a temper" is also not well developed, other than via an offhand, unrecorded statement that S.A. made to Detective Higgins. There is no other evidence in the record supporting this claim, and I find it not to be supported by a preponderance of evidence.

I conclude that the Boston Police Department failed to meet its burden to establish, by a preponderance of credible evidence, that their stated reason for bypassing the Appellant rested on a solid foundation.

Nothing in this decision should be construed to imply that the Commission does not take allegations of domestic abuse very seriously; when there is percipient testimony or credible evidence to support a reasonable inference that such misconduct did occur, the Commission will continue to uphold the decision of an appointing authority to bypass any candidate for appointment

to a public safety position who has demonstrated unsuitability after engaging in such serious misconduct.

CONCLUSION

Accordingly, the appeal of Nahom Haile filed under Docket No. G1-25-029 is hereby *allowed*. Pursuant to its authority under Chapter 310 of the Acts of 1993, the Commission hereby orders the following:

1. The state's Human Resources Division shall place the name of the Appellant at the top of any current or future certification for the position of Police Officer with the Boston Police Department until the Appellant has been appointed or bypassed.
2. If the Appellant is appointed, he shall receive a retroactive civil service seniority date equivalent to those individuals who were appointed from Certification No. 09999. This retroactive date is for civil service purposes only and is not intended to provide the Appellant with any additional pay or benefits, including creditable time for retirement purposes.

Once the Boston Police Department has provided the above-referenced relief, it shall notify the Commission, copying the Appellant, so the Commission can determine whether the Appellant's name shall no longer be placed at the top of certifications issued to the Boston Police Department for the position of Police Officer.

CIVIL SERVICE COMMISSION

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

By a vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) on September 4, 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)

Jennifer Cipolletti, Esq. (for Respondent)

Michael Owens, Esq. (HRD)

Regina Caggiano (HRD)