

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

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

**ERIC HALL &
SCOTT PHELON,**
Appellants

v.

E-23-123 (Phelon)
E-23-127 (Hall)

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant Hall:

Terence E. Coles, Esq.
Pyle Rome Ehrenberg PC
2 Liberty Square, 10th Floor
Boston, MA 02109

Appearance for Appellant Phelon:

Pro Se
Scott Phelon

Appearance for Respondent:

Melissa Thomson, Esq.
Human Resources Division
100 Cambridge Street, 6th Floor
Boston, MA 02114

Appearance for Intervenor:

Shanna R. Reed, Esq.
City of Westfield
59 Court Street
Westfield, MA 01085

Commissioner:

Christopher C. Bowman

DECISION ON CROSS MOTIONS FOR SUMMARY DECISION

The Appellants, both Lieutenants employed by the City of Westfield (City)'s Police Department, filed appeals with the Civil Service Commission (Commission), pursuant to G.L. c.

31, § 2(b), seeking review of a decision by the state's Human Resources Division (HRD) denying their request to sit for a police captain promotional examination to be held on September 23, 2023. The City, after being given intervenor status, has joined the Appellants in filing a joint request for relief via a Motion for Summary Decision. HRD filed an opposition. After careful review and consideration of both motions and the entire record, the request is denied.

The Appellants have not shown that HRD's decision here is arbitrary or capricious. Further, as noted by HRD in their cross motion, HRD has consistently held that eligibility to sit for the re-administered promotional examinations is limited to those who sat for the September 2022 promotional examinations that were never scored. We see nothing here that sufficiently distinguishes the Appellants' request from HRD's prior determinations which have been upheld by the Commission. Finally, the Commission considered that nothing in the civil service law or rules prevents the City from promoting one of the Appellants to permanent, full-time police captain now. Rather, the City has simply exercised its discretion not to do so from a short list of candidates.

For the above reasons, HRD's Motion for Summary Decision is allowed and the Appellants' appeals under Docket Nos. E-23-123 and E-23-127 are *denied*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chair

By a 3-1 vote of the Civil Service Commission (Bowman, Chair - Yes; Dooley, Commissioner – Yes; McConney, Commissioner – Yes; Tivnan, Commissioner - No [Stein – Absent]) on September 7, 2023.

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 their 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:

Terence Coles, Esq. (for Appellant Hall)

Scott Phelon (Appellant)

Shanna Reed, Esq. (for City)

Melissa Thomson, Esq. (for Respondent)