

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place, Room 503
Boston, MA 02108
(617) 979-1900

CHRISTINE JEAN-BAPTISTE,
Appellant

v.

G1-19-157

CITY of CAMBRIDGE,
Respondent

Appearance for Appellant:

Christine Jean-Baptiste
Pro Se

Appearance for Respondent:

Melissa R. Murray, Esq.
Norris, Murray & Peloquin, LLC
320 Norwood Park South
Norwood, MA 02062

Commissioner:

Cynthia A. Ittleman

DECISION

On July 30, 2019, the Appellant, Christine Jean-Baptiste (Appellant), pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the City of Cambridge (City or Respondent) to bypass her for promotional appointment to the position of Police Officer. On August 27, 2019, a pre-hearing conference was held at the offices of Commission. I held a full hearing at the same location on October 7, 2019.¹ The full hearing was digitally recorded and both parties received a CD of the proceedings.² On November 6,

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

² 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 he/she wishes to challenge the decision as unsupported by the

2019, the City submitted a post-hearing brief in the form of proposed decisions and on November 21, 2020, the Appellant filed her closing argument.³

FINDINGS OF FACT:

The parties submitted two (2) joint exhibits (Jt. Ex. 1-2). The Respondent submitted twenty-one exhibits (Resp. Ex. 1-21) and the Appellant submitted two (App. Ex. 1-2). After the hearing, at my request, the Respondent submitted three (3) exhibits, (PH Ex. 1-3), the second of which was the video recording of the February 2019 interview with the Appellant.

Based on the documents submitted and the testimony of the following witnesses:

Called by the City:

- Michael Carter, Detective, Cambridge Police Department (CPD), Professional Standards Unit/Background Investigations Office
- Jamie Matthews, Deputy Director of Personnel, City of Cambridge
- Silverio Ferreira, Lieutenant, Cambridge Police Department (CPD), Professional Standards Unit
- Branville G. Bard, Jr., Commissioner, Cambridge Police Department (CPD)

Called by the Appellant:

- Christine Jean-Baptiste, Appellant

and taking administrative notice of all matters filed in the case and pertinent statutes, regulations, case law and policies, and reasonable inferences from the evidence, I find the following:

Background

1. The Appellant is an African American woman who is a life-long resident of the City of Cambridge. She graduated from Cambridge Rindge and Latin in 2009 and has a B.A. in

substantial evidence, arbitrary and capricious, or an abuse of discretion. If such an appeal is filed, the CDs should be used to transcribe the hearing.

³ The City was permitted to respond to the Appellant's late-submitted closing argument. In that response, the City requested the Commission not address any claims of discrimination raised in the hearing. Although the Appellant discussed her complaint of discrimination with MCAD, the Appellant did not state she had been bypassed in 2019 for reasons other than the reasons listed in the City's letters bypassing her for appointment. The Appellant testified at the CSC hearing that MCAD found no probable cause in her claim.

Criminal Justice. She lives with her child, who has been diagnosed with a medical condition. Although she had once wanted to be a nurse, her dream is to be a police officer and serve her community. In addition to English, she is fluent in three languages: Spanish, Haitian-Creole, and French. (Appellant Testimony; Bard Testimony, Resp. Ex. 11, 17).

2. The Appellant applied twice for a position of police officer, the first in December 2015 and the second in December 2017. The Appellant signed the releases and the section of the applications stating that the information she presented was true. (Resp. Ex. 11; 17; Carter Testimony; Ferreira Testimony).
3. The City's hiring process includes an intake interview with a panel, as well as a second interview with an investigator and a supervisor to clarify information. All candidates during the 2018-2019 hiring process were interviewed twice. At each of these interviews, candidates have the opportunity to amend their applications with a "written statement" documenting information or details that are discussed during the interview. (Carter Testimony; Ferreira Testimony). After the investigation and interviews are completed, the investigator writes a summary, which the Commissioner uses to make a determination of whether the candidate will move to the next stage of interviewing. At the end of the process, the Commissioner then recommends the final candidates to the City's Town Manager. (Ferreira Testimony; Bard Testimony).
4. During the hiring process, the City looks for an "overall view" of each candidate, including the candidate's professionalism, interactions with co-workers, and job performance. (Ferreira Testimony). The application process is designed to be protective of the public and remove candidates who do not show trustworthiness and dependability. (Bard Testimony).

2015 Reasons for Bypass

5. After taking the Civil Service Exam on April 25, 2015, the Appellant applied to be a police officer.⁴
6. Detective Carter (Det. Carter or Carter), a detective who has worked for the City's Police Department for twenty-one years, has been trained to conduct investigations, and has written investigation reports since 2013, conducted the Appellant's background investigation. (Carter Testimony).
7. The Appellant's interviews took place on March 28, 2016 and March 31, 2016. (PH Ex. 3). Det. Carter took part in the Appellant's interview process. (Resp. Ex. 19, 20; Carter Testimony).
8. The Appellant was bypassed for the position of police officer. (Resp. Ex. 2, Appellant Testimony, Carter Testimony). The three reasons she was bypassed were her employment history, the details of which are discussed later in this decision; an alleged lack of truthfulness about her employment history; and alleged lack of truthfulness about her educational background. (Resp. Ex. 2; Carter Testimony). (Resp. Ex. 2).
9. Along with the bypass, the City sought the Appellant's removal from the eligible list pursuant to Personnel Administration Rule 3 and Rule 9 based on several factors including her unsatisfactory employment history and untruthfulness. (Resp. Ex. 3, 4). A removal under PAR .09 was granted by the state's Human Resources Division in June 2016. That list expired August 31, 2017. (Resp. Ex. 4).

⁴ After her application was submitted, the Appellant testified that the then- Police Superintendent Burke counseled her to withdraw her application, which she did; but she then re-filed it again. The Appellant brought a claim to the Massachusetts Commission Against Discrimination (MCAD) regarding this incident. (Appellant Testimony).

2019 Application and Bypass

10. On March 25, 2017, the Appellant took the next Civil Service Exam. She was number 27 on Certification 05912. She submitted her application for original appointment to be a police officer on December 6, 2018. (Stipulated Facts).
11. Det. Carter conducted the background investigation for the Appellant. This investigation was a “continuation” of the Appellant’s previous application and included a review of the Appellant’s 2015 application as well as a review of new information on the application up to 2018. Det. Carter compared the work history listed on the two applications. In addition, Det. Carter looked to verify employment that he had not previously verified. (Carter Testimony).
12. The initial interviews of the Appellant occurred on December 6, 2018 and a second interview was held on February 6, 2019. (PH Ex. 2, 3).
13. The investigative report dated March 16, 2019 discusses the Appellant’s personal information, military experience, education, employment history, RMV status, and “other”, which included the Appellant’s strengths in languages. This report contained detailed information about the Appellant’s employment and discipline in the three years since she had first applied, as well as details from the 2016 investigative report. (Resp. Ex. 9).
14. The Appellant was notified on June 19, 2019 that she was bypassed for appointment as a police officer. (Stipulated Facts). The City’s letter to the Appellant stated three reasons for bypass, including those reasons for bypass listed in May 2016: poor employment history, lack of truthfulness regarding employment history, and conduct not befitting a police candidate. The City’s decision regarding poor employment history was based on their determination that the Appellant had worked at three different places since 2016, and that prior to 2016, the Appellant had multiple places of employment, some for short time, with

the longest period lasting approximately 11 months. The City's 2019 determination that the Appellant had been untruthful in her disclosure of employment history was based on the following reasons cited in the letter:

- Employment history at Bertucci's was omitted from the 2018 application.
- Comparison of 2015 application to 2018 application showed different reasons for leaving Starbucks than abandonment of her position.
- The 2018 and 2015 applications showed an employment history but did not contain a complete and accurate account of entire employment history.
- The 2018 and 2015 applications failed to disclose reason for termination from TJ Maxx.

Regarding conduct unbecoming for a police candidate, the City cited recent warnings at the Cambridge Public School the Appellant worked at as a paraprofessional (assisting a teacher) for verbally arguing and using profanity with another staff member at school and violating policy; receiving a suspension from the school; and the School Department's decision to place her on leave and then not reinstate her contract as reasons her conduct did not comport with the high standards of conduct and professionalism. In sum, the City concluded that the Appellant's "multiple terminations, failure to fully disclose the issues surrounding [her] employment, and specifically the multiple thefts from co-workers at TJ Maxx, discipline history... [and] willingness to deliberately withhold and provide false information during the application and background investigation process [were] all indications that [the Appellant] does not meet the standards of the Police Department." (Resp. Ex. 2; Carter Testimony). In addition to these reasons, the letter also stated "[a]side from the information that came out of the 2018 application process, all of the reasons cited for your prior bypass in the May 17, 2016 bypass letter continue to apply." (Resp. Ex. 1; Carter Testimony). The City's 2019 bypass of the Appellant specifically incorporated its reasons for bypass provided in its bypass letter to the Appellant in 2016. (Resp. Exs. 1 and 2).

Employment History

15. On her 2018 application, the Appellant listed her employment history and reasons for leaving those employers.

- She was terminated several times: from Target after 7 months of employment in 2009; from TJ Maxx after 11 months in 2011; from Tasty Burger after one month of employment in 2012; and from the South End Buttery after 10 months of employment in 2014.
- The Appellant had voluntarily quit: Aeropostle after two months in 2009; Bertucci's after one month in 2015; and Starbucks after nine months in 2015.
- The Appellant also worked as a paraprofessional in the Cambridge Public Schools for the 2017-2018 school year. She listed her reason for leaving on her 2018 application as "contract ended."
- In August, 2018, the Appellant started work at Baycove Human Services of Boston and was working there at the time of her application. (Resp. Ex. 11)

On her 2015 application, the employment history was nearly the same as above, except that she stated the reason for leaving Starbucks was that she was "taken off system" and she had omitted Bertucci's as an employer. (Resp. Ex. 17)

16. The 2018 application, just as the 2015 application, requested that the candidate list all employment and provide details where the candidate had been terminated, left work without notice, violated policies, among other employment issues. (Resp. Ex.11; Carter Testimony).

Question 44 on the Application asks the following questions relevant to this appeal:

- 44. Have you ever been dismissed, terminated or asked to resign from any position of employment you have held?
- 44a. Have you ever violated the rules or and regulations of a company or employer?
- 44b. Have you ever failed to abide by the policies or procedures of a company or employer?
- 44d. Have you ever been counseled, verbally or in writing, for poor job performance, inappropriate behavior, attendance tardiness or any other work-related issue?
- 44e. Have you ever received disciplinary action, verbally or in writing, for poor job performance, inappropriate behavior, attendance tardiness or any other work-related issue?

- 44f. Have you ever quit any job or position of employment without giving notice?
44h. Are you ineligible for rehire with any of your former employers?

The Appellant disclosed on her 2018 application that she had been terminated, disciplined, and counseled, checking “yes” in the appropriate boxes and answered “no” to questions about violating rules, regulations, policies, or procedures. She also answered “no” to questions about quitting a job without notice and “no” to the question of being ineligible for rehire with a former employer. On her 2015 application, the Appellant wrote the same answers except on 44f, where she answered “yes” to questions about quitting a job without notice and “yes” to the question about being ineligible for rehire with a former employer. (Resp. Ex. 11, 17).

17. The investigator received documentation from Starbucks that the Appellant had missed several shifts, had not responded to phone calls about those shifts, and that she was separated from employment because of “abandonment.” (Resp. Ex. 18). The Appellant explained that she had told her manager at Starbucks that she was leaving the job to start school and that the manager did not convey that information to another manager at that store. (Appellant Testimony).

18. The Appellant was asked about her employment at TJ Maxx during her interview on February 6, 2019, and explained that the reason for leaving was that she had been terminated for an accusation of theft.⁵ She had not disclosed the information about alleged theft in the

⁵ Det. Carter discussed with TJ Maxx personnel their internal investigation of the Appellant. He learned that TJ Maxx had opened their own investigation and videotaped the Appellant with co-workers’ possessions. TJ Maxx told the investigator that the Appellant had signed a document admitting to theft and agreeing to termination. The City did not present a copy of the tape and the document. When asked about her termination from TJ Maxx, the Appellant did not offer any other information other than she had permission to take money from a friend’s belongings on that one occasion. (Ex. Interview; Carter Testimony; Ex. 20). Because no documentation supports the details provided by TJ Maxx, I give little weight to the information from TJ Maxx about the video and document.

application process of 2015, but had disclosed that she had been terminated.⁶ (Resp. Ex. 17; 21).

19. During the February 2019 interview, the Appellant was forthcoming about reasons for being disciplined while a paraprofessional at Cambridge Public Schools. Her discipline from the school included verbal warnings for outbursts with two staff members. (PH Ex. 2; Resp. Ex. 13, 14, 15). One of the warnings she received was for swearing during an altercation with another staff member in front of students. (Resp. Ex. 13). After the second warning, she was asked to “stay home,” which constituted a suspension. (PH Ex. 2). The Appellant told the investigators that the person with whom she had been arguing “got the best of [her] and they “went off on each other.” (PH Ex. 2). She received another warning for interacting with a counselor in an inappropriate manner. (Resp. Ex. 13, 14, 150). The Appellant documented details of her discipline on a “written statement” at the interview. (PH Ex. 2; Resp. Ex. 11).
20. During the Appellant’s interview on February 6, 2019, the Appellant also told the investigators that the school had placed her on Administrative Leave for an allegation regarding text messaging between her and the teacher in the classroom where she was placed. (Ex. Interview; Appellant Testimony). Ultimately, the school found the Appellant not to have engaged in inappropriate behavior via text but did not hire her for the next school year. (Jt. Ex. 1, 2; Appellant Testimony). The Appellant’s colleague wrote a letter of support for the Appellant stating that, throughout the school year, the Appellant had followed protocol while at the school. (App. Ex. 1).

⁶ Det. Carter inquired about the Appellant’s complaint to the EEOC about an employment issue at TJ Maxx. (Ex. 19). That issue is not relevant to the issues raised in this appeal other than to provide information that the Appellant worked in two TJ Maxx locations, the second of which is the location from which the Appellant was terminated for theft.

21. The information about administrative leave was not included in the application. (Resp. Ex. 11). During her second interview, the Appellant wrote a “written statement” that amended her answer to Question 44h (“Are you ineligible for rehire with any of your former employers?”) from no to yes at the request of the interviewers. (PH Ex. 2).
22. The Appellant also provided more information about the reason for leaving Bertucci’s without giving notice at the February 2019 interview. (Carter Testimony; Resp. Ex. 1; PH Ex. 2). She stated that she stopped going to work because she “wasn’t feeling it” and stated that she had not included this employer on her 2015 application because she had forgotten about the job. (PH 2).
23. The City found the Appellant untruthful for answering “no” to Question 44f (Have you ever quit any job or position of employment without giving notice?) because she had left Bertucci’s without giving notice; had omitted Bertucci’s from her 2015 application despite it being the most recent job prior to that application; had not included specific details about the reasons for her terminations, including the reason for leaving Starbucks; and had stated that she had followed employers’ policies and procedures, when she had received warnings, discipline, and was terminated from several positions on the basis of not following policies and procedures. (Resp. Ex. 1).

Educational History

24. When first attending college for her Associate’s degree, the Appellant had been working towards a nursing degree but switched to criminal justice program. (Appellant Testimony).
25. On her 2015 application and 2018 application, the Appellant wrote that she had earned an Associate’s Degree in Criminal Justice in December 2015 and a Bachelor’s Degree in Criminal Justice from Newbury College in May 2018. (Resp. Ex. 11, 17).

26. When asked about her education during her interview during the 2015-2016 application process, the Appellant stated that she had earned a Bachelor of Science from the University of Massachusetts Boston (UMass) in Nursing in 2010. (PH Ex. 3). She wrote down the classes and instructors who taught her at UMass for her Nursing degree. (Resp. Ex. 17). She stated that when she tried to get a copy of her transcript from UMass, they were “having trouble with the system” so that she was unable to get her files. She also stated that her mother had taken her diploma to Haiti. This information was included in “written statements” that the Appellant wrote at her interview. (Resp. Ex. 17; PH 3).
27. The investigator obtained documentation from UMass dated March 31, 2016 indicating that the Appellant had never attended UMass. Although she had applied there, she had been denied admission. (Resp. Ex. 5). This was one of the reasons that the City cited in its bypass letter to the Appellant in 2016, which letter was explicitly incorporated into the City’s 2019 bypass letter to the Appellant. (Resp. Exs. 1 and 2)
28. At the Commission hearing, the Appellant said that she had not graduated from Newbury College in May 2015, despite having written that date on her 2015 and 2018 applications. She had been able to participate in the graduation ceremony in 2015 but did not receive her degree until 2016, after she had completed a class. (Resp. Ex. 6; Appellant Testimony).

Conduct Unbecoming a Police Candidate

29. The City found that the Appellant’s conduct as a paraprofessional at Cambridge Public Schools reflected poorly on her judgment and did not show that the Appellant exhibited the qualities required of a police officer, such as remaining calm and exercising self-control at all times. (Resp. Ex. 1; Carter Testimony).

30. CPD Police Commissioner Bard stated that the Appellant has many positive attributes, such as being a lifelong resident of Cambridge, a minority, multi-lingual, and having a Bachelor's degree. However, he did not recommend the Appellant as a viable candidate because of her employment history, her omissions and untruthfulness during the application process, and the frequency of poor behavior, among other reasons. (Bard Testimony).

Legal Standard

The fundamental purpose of the civil service system is to guard against political considerations, favoritism, and bias in governmental hiring and promotion. The commission is charged with ensuring that the system operates on "[b]asic merit principles." Massachusetts Assn. of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 259, citing Cambridge v. Civil Serv. Comm'n., 43 Mass. App. Ct. 300, 304 (1997). "Basic merit principles" means, among other things, "assuring fair treatment of all applicants and employees in all aspects of personnel administration" and protecting employees from "arbitrary and capricious actions." G.L. c. 31, section 1. Personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Civil Service Commission to act. Cambridge at 304.

The issue for 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." Watertown v. Arria, 16 Mass.App.Ct. 331, 332 (1983). See Commissioners of Civil Service v. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975); and Leominster v. Stratton, 58 Mass.App.Ct. 726, 727-728 (2003). More recently, the Supreme Judicial Court confirmed that the appointing authority's reasonable

justification must be proved by a preponderance of the evidence. Boston Police Department v Civil Service Commission and Gannon, 483 Mass. 469 (2019).

The Commission's role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority's actions. City of Beverly v. Civil Service Comm'n, 78 Mass.App.Ct. 182, 189, 190-191 (2010), citing Falmouth v. Civil Serv. Comm'n, 447 Mass. 824-826 (2006), and ensuring that the appointing authority conducted an "impartial and reasonably thorough review" of the applicant. The Commission owes "substantial deference" to the appointing authority's exercise of judgment in determining whether there was "reasonable justification" shown. Beverly citing Cambridge at 305, and cases cited. "It is not for the Commission to assume the role of super appointing agency, and to revise those employment determinations with which the Commission may disagree." Town of Burlington and another v. McCarthy, 60 Mass.App.Ct. 914, 915 (2004).

Because police officers work within communities and hold a position of unique power requiring discretion, integrity, morals, and trustworthiness, they are held to a higher standard of conduct. "Police officers are not drafted into public service; rather they compete for their positions. In accepting employment by the public, they implicitly agree that they will not engage in conduct which calls into question their ability and fitness to perform their official responsibilities." Police Comm'r v. Civil Service Comm'n, 22 Mass. App. Ct. 364, 371, 494 N.E.2d 27, 32 *rev. den.* 398 Mass. 1103, 497 N.E.2d 1096 (1986). An appointing authority is justified in refusing to hire and/or to terminate a police officer who repeatedly demonstrates his "willingness to fudge the truth". *See* City of Cambridge v. Civil Service Comm'n, 43 Mass. 300, 303 (1997)("a demonstrated willingness to fudge the truth in exigent circumstances was a doubtful characteristic for a police officer. . . . It requires no strength of character to speak the

truth when it does not hurt.”). *See also* Everton v. Town of Falmouth, 26 MCSR 488 (2013) and cases cited, *aff’d*, SUCV13-4382 (2014); Gonsalves v. Town of Falmouth and cases cited, 25 MCSR 231 (2012), *aff’d*, SUCV12-2655 (2014); Keating v. Town of Marblehead, 24 MCSR 334 (2011) and cases cited.

Analysis

Both parties submitted post-hearing briefs, as noted above, and I considered both in depth and in detail. The Appellant’s brief was 27 pages long and contains statements asserting that the City exhibited bias against her personally in the police application process and that she has been mistreated in her employment experiences because of racism. I take Ms. Jean-Baptiste’s words (in her brief as well as her testimony) very seriously, especially in view of the text of section 1 of Massachusetts civil service law, which obliges the Commission and employers to assure fair treatment of all applicants and employees “without regard to political affiliation, race, color, age, national origin, sex, marital status, handicap, or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens.” G.L. c. 31, § 1. I have carefully reviewed each of the Appellant’s allegations against the evidence in the record. For example, I note that the City’s application asks candidates to “provide details” about employment issues and that the Appellant provided certain details on her 2018 application, and later explained more fully during the interview. Specifically, the Appellant disclosed the warnings she received from the school where she was a paraprofessional. Further, when the City needed more information beyond what the Appellant provided in her 2018 application, the Appellant provided added information. In addition, the City believed that being put on administrative leave during the school investigation of her conduct should have been disclosed as discipline. However, it is reasonable that the Appellant believed, since she was exonerated, that

this information did not constitute discipline. Further, although the Appellant did not disclose on her application that her contract at the school was not renewed, the Appellant stated that she had accepted a one-year position and that position ended. The City interpreted the end of the Appellant's school contract to mean that she was ineligible for re-hire, considering it to be another instance of untruthfulness on the Appellant's part. This interpretation is not supported in the record. Also, a decision to not renew a school employment contract does not necessarily mean that the Appellant is not eligible for re-hire.

The Appellant certainly brings positive qualities to her application for the position of police officer, including being a lifelong Cambridge resident, speaking several languages fluently, and obtaining a college degree in criminal justice while raising a child with special needs. Unfortunately, as Police Commissioner Bard stated, the City had reasonable justification to bypass because the positives were outweighed by the negatives. There is a mountain of credible evidence in the record indicating that the Appellant omitted certain information that the hiring process requires all applicants to provide and she has provided inconsistent and/or conflicting information on her application and at her interview for the police officer position. Further, the 2019 bypass letter sent to the Appellant explicitly references and relies on the same or similar shortcomings in the Appellant's 2016 application, both of which indicate that the Appellant has been dishonest about her poor employment record and her education.

“The Commission has recognized that a police officer must be truthful at all times and that failure to do so constitutes conduct unbecoming an officer, MacHenry v. Wakefield, 7 MCSR 94 (1994). In fact, lying in a disciplinary investigation alone is grounds for termination. LaChance v. Erickson, 118 S.Ct. 753 (1998), citing Bryson v. United States, 396 U.S. 64 (1969). The Commission has stated that “it is well settled that police officers voluntarily undertake to

adhere to a higher standard of conduct than that imposed on ordinary citizens” Garrett v. Haverhill, 18 MCSR at 381, 385 (2005). Specifically, there “is a strong public policy against employing police officers who are untruthful” Royston v. Billerica, 19 MCSR 124, 128 (2006). The Commission has also consistently held that an allegation of untruthfulness, particularly when made against a law enforcement officer or candidate, should be made with an appropriate level of seriousness and due diligence. *See* Morley v. Boston Police Department, 29 MCSR 456 (2016). *See also* Grasso and Moccio, v. Town of Agawam, 30 MCSR 347, 369 (2017).

The City has established by a preponderance of the evidence that it had reasonable justification to bypass the Appellant. While it relied heavily on the Appellant’s employment history in its determination, the investigation into the Appellant’s employment history and education was thorough and the Appellant had multiple opportunities to clarify information about her work history. Further, although the investigator utilized his 2016 investigative conclusions to supplement the reasons for bypass in 2019, he did not solely rely upon the former investigation or former findings.

In its 2018-2019 investigation, the City noted the Appellant’s working history since 2016, including for the Cambridge Public Schools and Baycove Human Services. Answers to Question 44 from the 2018 application indicated a lack of truthfulness when the Appellant was completing her 2018 application. For instance, the Appellant’s 2018 application stated that she did not ever quit a job without giving notice, which was untrue because she had stopped going to work at Bertucci’s after a short time of employment. The verbal warnings that the Appellant received as a paraprofessional at a school for twice engaging in verbal altercations with other staff demonstrated a lack of professionalism and the ability to remain calm in stressful situations.

Omitting Bertucci's on the list of employers, when the Appellant left that job without giving notice and stated on her application that she had never left a job without giving notice, was also untruthful. This new information on the investigator's 2019 report demonstrates that the City considered the Appellant's recent circumstances in its determination in addition to her prior work experiences.

In addition to the City's 2018 findings of untruthfulness, the City expressed concern about the Appellant's untrue statements made during the 2015-2016 interview process, incorporating the bypass reasons from 2016 into its bypass letter. For example, the statements that the Appellant had made that she had obtained a nursing degree after attending the University of Massachusetts (UMass.) were "completely false." This in itself might have been considered a reason for bypass. On question 43, the Appellant stated that she was "taken off the system" at her job at Starbucks, a statement which was contradicted by that company's documentation. In response to question 44b of her application, the Appellant stated that she had followed employers' policies and procedures, which the CPD investigator found to be false based on documentation and discussions with Starbucks, South End Buttery, Tasty Burger, TJ Maxx, and Target, all of which indicated that she was terminated from those positions for not following policy or procedure. Ex. 2; Carter Testimony. The Appellant did not fully answer all parts of question 44 in full detail and, therefore, omitted pertinent details, such as that the Appellant had been terminated from employment at TJ Maxx for theft. (Resp. Ex. 2; Carter Testimony).

The candidate's employment history between the 2015 and 2018 applications, while reflecting more stable patterns than in the past, demonstrated that the Appellant did not have a recent discipline-free employment history, and that she lacked the ability to work at one place of employment for longer than a few months. Also difficult for the Appellant is that she has been

terminated from so many positions, even as recently as 2016, three years prior to her 2018 application. Even if the Appellant had extenuating circumstances excusing those terminations, which she does not, she has not maintained a job for more than a year.⁷ Thus, the City has shown by a preponderance of evidence that there was reasonable justification for bypassing the Appellant.

Conclusion

For all of the above reasons, the Appellant's appeal under Docket No. G1-19-157 is hereby *denied*.

Civil Service Commission

/s/ Cynthia Ittleman

Cynthia A. Ittleman
Commissioner

Civil Service Commission

/s/ Cynthia A. Ittleman

Cynthia A. Ittleman
Commissioner

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Tivnan, and Stein, Commissioners) on May 6, 2021.

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,

⁷ I need not explore the contradiction between the Appellant's version of leaving Starbucks and Starbucks' documentation of "abandonment," since even without this employment, the record shows a pattern of short periods of employment.

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:

Christine Jean-Baptiste (Appellant)

Melissa Murray, Esq. (for Respondent)

Michele Heffernan, Esq. (HRD)