

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street – Suite 200

Boston, MA 02114

617-979-1900

MARCOS JOSEPH,

Appellant,

v.

BOSTON POLICE DEPARTMENT,

Respondent

Docket Numbers:

G1-23-145, G1-24-099

Appearance for Appellant:

Gary Pelletier, Esq.
35 Touro Street.
Newport, RI 02840

Appearance for Respondent:

Omar Bennani, Esq.
Boston Police Department
Office of the Legal Advisor
One Schroeder Plaza
Boston, MA 02120

Commissioner:

Angela C. McConney

SUMMARY OF DECISION

The Commission affirmed the decision of the Boston Police Department to bypass a candidate for appointment as a police officer because of his untruthfulness in connection with an immigration petition.

DECISION

On August 7, 2023 and June 20, 2024, the Appellant, Marcos Joseph (Appellant or Mr. Joseph), pursuant to G.L. c. 31, § 2(b), appealed to the Civil Service Commission (Commission) the July 27, 2023 and May 25, 2024 decisions of the Boston Police Department (Department) to bypass him for original appointment to the position of permanent, full-time police officer with

the Department.

The Commission conducted a remote pre-hearing conference on September 5, 2023. On November 7, 2023 and March 12, 2024, I conducted an in-person full evidentiary hearing at the offices of the Commission, located at 100 Cambridge Street, Boston MA.¹ The hearing was recorded via Webex.² In May 2024, the parties filed proposed decisions, whereupon the administrative record closed.

Consolidation of Docket Numbers G1-23-145 and G1-24-099

While the appeal filed on August 7, 2023 was pending, Mr. Joseph filed another appeal after the Department bypassed him again on May 25, 2024. That appeal was docketed as G1-24-099. The Commission conducted a remote pre-hearing conference in the second matter on July 30, 2024. The parties agreed that the reasons cited for the second bypass were identical to those in the prior hiring cycle, and the Commission consolidated the appeals filed under Docket Numbers G1-23-145 and G1-24-099.

FINDINGS OF FACT:

I admitted eight exhibits from the Respondent Department (R. Exhibits 1-8).³ I admitted Mr. Joseph's appeal form as Appellant Exhibit 1 (A. Exhibit 1) and the Stipulations as Joint Exhibit 1 (J. Exhibit 1). Based upon the documents submitted and the testimony of the following witnesses:

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. § 1.01 (formal rules), apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

² The Commission provided a link to the parties. Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal is obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by substantial evidence, arbitrary or capricious, or an abuse of discretion. In such cases, the plaintiff in the judicial appeal must transcribe the transcript from the Commission's official recording.

³ R. Exhibits 2 and 3 are impounded.

Called by the Department:

- Detective Karyn Van Dyke, Recruit Investigations Unit, Boston Police Department
- Teori Shaw-Boyce, Deputy Director of Human Resources, Boston Police Department

Called by the Appellant:

- Marcos Joseph, the Appellant

and taking administrative notice of all pleadings filed in this case, plus pertinent rules, statutes, regulations, case law and policies, and drawing reasonable inferences from the credible evidence,

I make the following findings of fact:

1. Marcos Joseph is a high school graduate. He attended college, but did not graduate. (R. Exhibit 1; Testimony of Appellant)
2. After serving in the National Guard from May 2013 until November 2021, Mr. Joseph was honorably discharged. (Testimony of Appellant)
3. Mr. Joseph has been employed as a motor equipment operator since November 2022. (R. Exhibit 1; Testimony of Appellant)
4. Mr. Joseph worked as a Recovery Specialist for a substance abuse treatment center from September 2017 to December 2018. (R. Exhibits 1 and 7)
5. On June 12, 2021, Mr. Joseph passed the civil service examination. (J. Exhibit 1)
6. On July 1, 2022, the state's Human Resources Division (HRD) established an eligible list of candidates for the position of Boston Police Officer. On September 1, 2022, HRD issued Certification No. 08848 to the appointing authority. Mr. Joseph ranked 25th among those willing to accept appointment. (J. Exhibit 1)

Previous Bypasses

7. Mr. Joseph applied to the Department during the 2020, 2021, 2022 and 2022/2023 recruit hiring cycles. For the 2020 hiring cycle, the Department sent him an email advising him

that his application was incomplete and missing information, and considered a failure to complete. (R. Exhibit 1)

8. The Department bypassed Mr. Joseph in the 2021, 2022 and 2022/2023 hiring cycle because he was ineligible for a license to carry (LTC) firearms. (R. Exhibit 1)

Mr. Joseph's Criminal History

9. Det. Peter McCarthy of the Recruit Investigation Unit (RIU) performed Mr. Joseph's 2020 and 2021 background investigations. On the application, Mr. Joseph indicated that while working at a treatment center in November 2017, he was "wrongfully" given a written warning for flirting with a patient, and disagreed with the warning. Mr. Joseph said that the treatment center cleared him and transferred him to its adult facility. (R. Exhibit 1)

10. Mr. Joseph continued to be employed by the treatment center until May 2018, when he was put on leave. (R. Exhibit 1)

11. While Mr. Joseph was on leave from the treatment center, a second patient came forward with allegations. (R. Exhibit 1)

12. Mr. Joseph informed Det. McCarthy during the 2020 background investigation that Ms. A had recanted her statement, while Ms. B uttered her allegations because she had relapsed and did not want to return to the treatment center. (R. Exhibit 1)

13. On March 29, 2021, Det. McCarthy spoke to Mr. Joseph's supervisor from the treatment center at the time of the allegations. The supervisor stated that Mr. Joseph was reliable, "a good kid" and that there were no problems at work – despite the written warning. He confirmed that Mr. Joseph was "cleared" and "never charged" by the treatment center, and that he left of his own accord. Further, the supervisor said that Mr. Joseph would be a perfect fit for the Department. (R. Exhibit 1)

Mr. Joseph's I-130 Petition

14. On September 10, 2019, Mr. Joseph filed a Department of Homeland Security (DHS) United States Citizenship and Immigration Services (USCIS) I-130 Form, *Petition for Alien Relative*, under the pains and penalties of perjury, for a Permanent Resident Card (also known as a Green Card) for Ms. C, a Brazilian national. In the petition, Mr. Joseph submitted March 25, 2019 as the date of his marriage to Ms. C. <https://www.uscis.gov/i-130> (R. Exhibit 1)

15. On August 22, 2022, DHS issued a second Notice of Intent to Deny (NOID) to Mr. Joseph, finding that after a review of his petition, the testimony provided during his August 19, 2020 interview and the record of evidence, he had failed to establish a bona fide spousal relationship with the beneficiary (Ms. C).⁴ (R. Exhibit 5)

16. In the separate interviews conducted by DHS USCIS, Mr. Joseph and Ms. C offered disparate accounts of important milestones in their relationship including – the dates and location of their first meeting, the names of their English and Portuguese language teachers and the days and frequency of the lessons, the occasion of Ms. C's daughter's visit to the claimed marital residence, Mr. Joseph's Army Reserve schedule and Mr. Joseph's Department of Veterans Affairs (DVA) recognized disability. (R. Exhibit 5)

17. DHS also questioned the documents that Mr. Joseph submitted as proof of a bona fide spousal relationship. As proof of the marriage, Mr. Joseph offered a March 19, 2019 receipt

⁴ The petitioner must show by a preponderance of the evidence that the marriage was legally valid and bona fide at its inception, and “not entered into for the purpose of evading the immigration laws.” *Matter of Laureano*, 19 I&N, Dec. 1, 3 (BIA 1983). Although evidence to establish intent at the time of the marriage can take many forms, some of those forms include: “proof that the beneficiary has been listed as the petitioner’s spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence, and experiences.” *Id.*

from a steakhouse, inscribed with a handwritten note “date of marriage,” despite submitting a marriage date of March 25, 2019 within the petition. (R. Exhibit 5)

18. Mr. Joseph provided only the first page of the monthly six-page banking records covering the first six months of the marriage, with no evidence of banking activity. He also provided three screenshots of bank account activity from December 17-20, 2020, but only one of the screenshots provided any identifying information about the bank account, the bank holding the account, and the name of the account holder. (R. Exhibit 5)

19. Mr. Joseph also submitted an unsolicited credit card offer to Ms. C. DHS concluded that Ms. C had not provided the claimed marital address to the bank: the bank had merely sent offers to that address. Additionally, because this document was only an offer for a credit card, it did not provide information about the bona fides of the marriage. (R. Exhibit 5)

20. In a proffer of commingled finances, Mr. Joseph offered a letter from another bank addressed to Ms. C, but written in Spanish. He also offered a retail credit card denial addressed to Ms. C. DHS concluded that both letters showed that Ms. C. used the claimed marital address for correspondence purposes, but offered no evidence of commingled finances. Another letter offered to DHS was addressed to a third party with the same last name as Ms. C’s birth name (presumably Ms. C’s husband). (R. Exhibit 5)

21. DHS noted that the DVA dependent identification card submitted by Mr. Joseph, normally something given positive consideration, could not overcome the numerous other discrepancies in the record. The presence of the card only indicated that Mr. Joseph provided Ms. C’s name to the DVA, but offered no information on cohabitation or other aspects of a shared life together. (R. Exhibit 5)

22. DHS noted that Mr. Joseph provided 2019 IRS tax transcripts submitted as head of household, inconsistent with the fact that he was married to the beneficiary for the majority of the year 2019. DHS found that this suggests that Mr. Joseph was willing to provide inconsistent information on official documents to government agencies, casting doubt on information provided to USCIS. (R. Exhibit 5)

23. DHS further stated that the provided screenshot of Mr. Joseph's Disney+ account profiles, the two utility statements only showing his name, the screenshots depicting sporadic text messages with one person's name as Marcos, including an eight-month gap, do not speak to the bona fides of the marriage. (R. Exhibit 5)

24. Mr. Joseph provided 20 photographs, purporting to show 11 events, but DHS found that they failed to demonstrate the breadth and depth of experiences that would be expected of a couple that had been married for over a year at the time of the response to the first NOID. (R. Exhibit 5)

25. After the first NOID, USCIS tried to conduct multiple administrative site visits at the claimed marital address, but Mr. Joseph and Ms. C were never at home. However, USCIS was able to speak to Ms. C on two occasions, with her son acting as interpreter. Ms. C said that she lived at the claimed marital home with Mr. Joseph and her two children, and that her name was on the mailbox. Her son also said that he lived at the claimed marital home. (R. Exhibit 5)

26. When USCIS visited the claimed marital home, neither Mr. Joseph nor Ms. C's name was on the mailbox. USCIS found that this cast doubt on the beneficiary's (Ms. C) knowledge of Mr. Joseph's residence. (R. Exhibit 5)

27. The USCIS received a copy of Mr. Joseph's lease for the claimed marital address during the course of its investigation. The tenants on the lease were Mr. Joseph, his son's mother

and his son. The lease was signed on December 19, 2019, more than six months after Mr. Joseph putatively married Ms. C. The landlady verified that Mr. Joseph rented the unit with another woman and a child, in contrast to Mr. Joseph's statement to USCIS that he lived there with Ms. C and her two children. (R. Exhibit 5)

28. Mr. Joseph countered that due to the pressure of the interview setting, he had provided random dates and times when asked about Ms. C's daughter staying at his residence. DHS found that this explanation was insufficient, and while Form I-130 interviews could be stressful, discrepant testimony cannot be explained by arguing that you knowingly provided inaccurate testimony under pressure. In regard to their discrepant testimony regarding his Army Reserve scheduled obligation, Mr. Joseph said that Ms. C must have been confused. DHS found that this was not a sufficient explanation. (R. Exhibit 5)

29. Mr. Joseph testified during the Form I-130 interview that the DVA paid 70% of his rent due to a service-related disability. However, during their separate USCIS interviews, Mr. Joseph and Ms. C described different disabilities. In response to the NOID, Mr. Joseph countered that Ms. C had confused different body parts. DHS found that this explanation was insufficient: it is reasonable to assume that the documented disability or impairment would affect the day-to-day relationship with Ms. C, and therefore she would be expected to give accurate testimony about it. (R. Exhibit 5)

30. Mr. Joseph received housing benefits pursuant to Chapter 115 and DVA. Although he completed the application after the wedding, he only listed his son as beneficiary. Mr. Joseph also received benefits via the Veterans Affairs Supportive Housing (VASH) program with the Department of Housing and Urban Development (HUD). However, he was the only household member listed with the program, suggesting that he had did not accurately report his marital

status to the housing authority. DHS found that Mr. Joseph provided inaccurate marital information to a government agency in pursuit of a benefit. (R. Exhibit 5)

31. DHS found Mr. Joseph's willingness to provide inaccurate information regarding his marriage to both the IRS and in pursuit of housing assistance undermined his credibility with USCIS. (*See* Finding of Fact 29; R. Exhibit 5)

32. DHS gave the website photo showing Ms. C listed on Mr. Joseph's military benefits enrollment page slight positive consideration, finding that it did not overcome the other derogatory information contained within the NOID. (R. Exhibit 5)

33. USCIS contacted the property owner of Ms. C's listed previous address. The owner stated that she had rented the unit to Ms. C, her husband, Mr. D, and their two children two or three years ago, in 2019 or 2020. The owner also stated that Ms. C and her family had moved to either North or South Carolina. This contradicted the information provided to USCIS that Mr. D lived locally, and that he had lived there for at least during part of the claimed marital union. (R. Exhibit 5)

34. USCIS conducted a June 2, 2022 site visit to Mr. D's address and found mail on the floor outside the door addressed to him. (R. Exhibit 5)

35. When USCIS questioned Ms. C about Mr. D's address, she admitted that she had gone to South Carolina and may have signed a lease for Mr. D there. DHS concluded that both Mr. Joseph and Ms. C had signed leases for former romantic partners during the time period of the putative marriage, raising significant doubts regarding the bona fides of the marriage. (*See* Finding of Fact 27; R. Exhibit 5)

36. While on a telephone conversation with USCIS, Ms. C said that she last saw Mr. Joseph in his military work uniform in February or March 2022. However, he was discharged

from the National Guard in November 2021. Also, while speaking to USCIS, Ms. C said that she preferred that USCIS deny her application so that she could appear before an immigration judge. (R. Exhibit 5)

37. USCIS was uncertain why Ms. C preferred to have her application denied, as beneficiaries usually want their petition to be approved. Her desire to appear before a judge rather than demonstrate the bona fides raised doubts about their marriage. (R. Exhibit 5)

38. In their native Brazil, Ms. C and Mr. D had appeared at the U.S. Consulate in Sao Paulo to apply for nonimmigrant visas as a married couple. However, on the USCIS form, Ms. C did not indicate that she was previously married, and she failed to note a previous marriage on the marriage certificate. (R. Exhibit 5)

39. USCIS noted that Ms. C's previous marriage was not properly terminated, dissolved or annulled. USCIS concluded that as Ms. C was not legally free to marry, the claimed marriage was invalid and the petition could not be approved. (R. Exhibit 5)

40. In October 2022, the DHS contacted Sgt. Det. Puglia to inform him that it was investigating Mr. Joseph for engaging in a fraudulent marriage with Ms. C, who did not live in Massachusetts. (R. Exhibit 5)

41. On February 23, 2023, DHS informed Sgt. Det. Puglia that their investigation was still pending, and that it would move forward with its Notice of Intent to Deny Mr. Joseph's petition for permanent residency on behalf of his spouse. (R. Exhibit 1)

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42. Mr. Joseph applied again to the Department in 2022, his third recruit applicant cycle. (R. Exhibit 1)

43. Det. Karyn Van Dyke served as a detective for nine years before retiring from the Department in September 2023. She was last assigned to the RIU, and as part of her RIU duties, assumed Mr. Joseph's background investigation from Det. McCarthy. Det. Van Dyke reviewed and updated where necessary Mr. Joseph's criminal history, driving history, employment history, education, and personal references. (R. Exhibit 1; Testimony of Van Dyke, Testimony of Shaw-Boyce)

44. On February 2-3, 2023, Det. Van Dyke reached out to Mr. Joseph for clarification about the incidents at the treatment center. In emails, Mr. Joseph repeated his assertion that the treatment center supported him; he had not been fired, but chose not to return from his leave of absence; and that Ms. B had made allegations to avoid going back to rehab. (R. Exhibit 8)

45. Det. McCarthy had been unable to meet Ms. C in person or speak to her in the previous two recruit hiring cycles. When Det. Van Dyke was able to contact her, Ms. C said that she was going to divorce Mr. Joseph. (R. Exhibit 1)

46. Mr. Joseph had told Det. McCarthy that the couple separated in December 2021, and that he planned on filing for divorce in February 2023. (R. Exhibit 1)

47. Teori Shaw-Boyce has served as the Human Resources Deputy Director and a member of the roundtable since June 20, 2022. The roundtable included Sgt. Det. John Puglia, Dep. of Internal Affairs Philip Owens, and attorneys from the Department's Legal Department. (R. Exhibit 7; Testimony of Det. Van Dyke, Testimony of Shaw-Boyce)

48. Det. Van Dyke presented the Privileged and Confidential Memorandum (PCM), dated February 24, 2023, to the roundtable. After the detective left the room, the roundtable deliberated on Mr. Joseph's application. (Testimony of Van Dyke, Testimony of Shaw-Boyce)

49. The roundtable made the decision to bypass Mr. Joseph, and notified him in a July 27, 2023 letter enclosing his appeal rights. (R. Exhibit 6)

50. The roundtable cited two reasons, including the August 22, 2022 Notice of Intent to Deny from DHS USCIS regarding Mr. Joseph's Form I-130 *Petition for Alien Relative*, due to its inconsistencies, giving the agency reason to doubt the validity of his marriage. The USCIS investigation also uncovered that Mr. Joseph had provided incorrect information to the IRS and Veteran Affairs Supportive Housing Program in order to pursue benefits. (R. Exhibit 6)

51. The roundtable was concerned about that the number of inconsistent statements in the USCIS application, and concluded that they rendered him unsuitable for employment as a police officer. (R. Exhibit 6)

52. Mr. Joseph timely filed a bypass appeal with the Commission on August 7, 2023. (A. Exhibit 1)

Applicable Civil Service Law

The core mission of Massachusetts civil service law is to enforce “basic merit principles” for “recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills” and “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., *Massachusetts 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). See also *Brookline v. Alston*, 487 Mass. 278 (2021) (analyzing broad scope of the Commission’s jurisdiction to enforce basic merit principles under civil service law). Original 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.

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 Serv. Comm’n*, 483 Mass. 461, 474-78 (2019); *Police Dep’t of Boston v. Kavaleski*, 463 Mass. 680, 688-89 (2012). *Beverly v. Civil Serv. 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”).

Public safety officers are vested with considerable power and discretion and must be held to a high standard of conduct. See, e.g., *Falmouth v. Civil Serv. Comm’n.*, 61 Mass. App. Ct. 796, 801 (2004), citing *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 303-305, rev. den., 10 428 Mass. 1102 (1997); *Police Comm’r v. Civil Serv. Comm’n*, 22 Mass. App. Ct. 364, 371, rev. den. 398 Mass. 1103 (1986).

ANALYSIS

The Department has shown, by a preponderance of the evidence, that it had reasonable justification to bypass Mr. Joseph for original apportionment as a police officer. Because I find

that Mr. Joseph's bypass is justified by his I-130 Form petition alone, there is no need to address the first bypass reason the Department used to justify his bypass.

After reviewing Det. Van Dyke's process and adherence to procedure, I find that she conducted a reasonably thorough and detailed investigation.

First Bypass Reason – Criminal History

In certain circumstances, the Department may consider underlying behavior that does not involve law enforcement action, the court system or result in a conviction.

However, I need not examine the merits of the first bypass reason because I find that the second bypass reason, on its own, provided reasonable justification for bypassing Mr. Joseph.

Second Bypass Reason - Untruthfulness

The Department found that the untruthfulness identified in Mr. Joseph's Form I-130 *Petition for Alien Relative* deemed him unsuitable for employment as a Boston police officer. Indeed, Mr. Joseph's Form I-130 was unlikely to result in success for the beneficiary, Ms. C.

The DHS USCIS August 22, 2022 Notice of Intent to Deny stated that the evidence in the record and the testimony at the interview failed to establish the claimed marital relationship. Further invalid evidence included photos, leases, bank statements, screen shots of text message exchanges and unsolicited credit card offers: none of which spoke to the bona fides of the marriage.

Mr. Joseph offered a March 19, 2019 restaurant receipt with the handwritten note, "Date of Marriage," as proof of the March 25, 2019 marriage. Not only was the date of the marriage – if one actually took place – in doubt, it appeared that both Mr. Joseph and Ms. C were married to other partners at some point during the pendency of their alleged marital relationship. Mr. Joseph's landlord also informed USCIS officials that he lived at the claimed marital address with

his son and the child's mother – instead of living there with Ms. C and her two children as claimed in the I-130 Petition.

Throughout the petition, Mr. Joseph proved willing to provide inconsistent information on official documents to government agencies, which cast doubt on the information provided to USCIS. He provided 2019 IRS tax transcripts filed as a head of household, although he was married to Ms. C for the majority of that year. While Mr. Joseph presented Ms. C's military dependent identification card, its presence only showed that he had provided her information to the Department of Defense, and provided no information regarding their cohabitation or other aspects of a shared life together.

Mr. Joseph also provided inaccurate marital information to a government agency in pursuit of a benefit. Mr. Joseph omitted Ms. C from his application for Chapter 115 benefits, although he completed the application after the date of the wedding. He also did not include her in his lease for the Veterans Affairs Supportive Housing (VASH) program with HUD.

Finally, USCIS concluded that Ms. C may not have been free to marry Mr. Joseph.⁵ The evidence in the record does not establish that all of Ms. C's prior marriages have been terminated, dissolved or annulled. Moreover, Ms. C did not indicate on the marriage certificate that she had previously been married. No evidence of termination of her marriage to Mr. D has ever been provided.

It appears that Mr. Joseph married a woman already in a marital relationship; pretended to cohabit with her in Massachusetts while she was living in another state; while in fact he was living with his son and her mother. Mr. Joseph submitted official government forms to USCIS

⁵ Any pre-existing valid marriage is a bar to recognition of the current marriage on which the spousal petition is based. *See Matter of Nwangwu*, 16 I&N (Dec. 61) (BIA 1976).

from other governmental entities – the DVA, HUD and the National Guard. Mr. Joseph’s attempt to obtain a Green Card for Ms. C was at best a clumsy effort, and shows a serious flaw and lack of truthfulness in his character.

Truthfulness is an essential job requirement for the position of police officer. When an officer is found to be untruthful, it damages the officer’s ability to testify in future court proceedings. Testifying in court is a fundamental job requirement for police officer, and therefore it is essential that an officer candidate’s integrity and credibility be intact.

For the reasons already stated, the roundtable’s decision to bypass Mr. Joseph based solely on his untruthfulness is reasonably justified.

CONCLUSION

I find that the Boston Police Department was reasonably justified in bypassing Marcos Joseph for the reasons cited above.

At the July 30, 2024 Prehearing Conference, the Commissioner allowed the parties’ motion to consolidate Docket No. G1-23-145 and Docket No. G1-24-099 because the bypass appeals were similar.

The appeals filed under Docket Numbers are G1-23-145 and G1-24-099 are hereby *denied*.

Civil Service Commission

/s/ Angela C. McConney
Angela C. McConney
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney and Stein, Commissioners [Markey – Absent]) on October 17, 2024.

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 C.M.R. § 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:

Gary Pelletier, Esq. (for Appellant)

Omar Bennani, Esq. (for Respondent)