

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place, Room 503
Boston, MA 02108
(617) 727-2293

SEAN LAYTON & RYAN LAYTON,
Appellants

v.

G1-10-293 (Sean Layton)
G1-10-292 (Ryan Layton)

CITY OF SOMERVILLE,
Respondent

Appellants' Attorney:

Paul T. Hynes, Esq.
Angoff, Goldman, Manning,
Wanger, Hynes & Dunlap, P.C.
100 River Ridge Drive, Suite 203
Norwood, MA 02062

Respondent's Attorney:

Robert V. Collins, Esq.
Chief Labor Counsel
City of Somerville
City Hall
93 Highland Avenue
Somerville, MA 02143

Commissioner:

Christopher C. Bowman

DECISION ON APPELLANTS' MOTION FOR RECONSIDERATION

The Appellants filed a Motion for Reconsideration of a decision of the Commission, dated August 25, 2011, denying the aforementioned appeals and the Appointing Authority filed an Opposition to the Appellants' Motion for Reconsideration.

A Motion for Reconsideration must identify a clerical or mechanical error in the decision or a significant factor the Commission or the presiding officer may have overlooked in deciding the case.

While most of the Appellants' motion focuses on issues thoroughly considered and addressed in the Commission's August 25, 2011 decision, some issues addressed in the Appellants' motion warrant a clarification.

First, it appears that the Appellants have misconstrued this Commissioner's attempt to tread lightly regarding the credibility assessments of various witnesses, including the Layton brothers and their father, suggesting that I failed to give their testimony appropriate consideration in this matter. On the contrary, I carefully considered the testimony of each of the Appellants' witnesses. Generally, their testimony fell far short of what is expected from individuals testifying under oath. Specifically, their testimony, which I did not find credible, made it painfully clear that Sean and Ryan Layton did not reside in Somerville one year prior to taking the civil service examination. Thus, they did not meet the residency requirement and they should not have been considered for appointment.

Second, the Appellants attempt to muddle the issue regarding Sean Layton's time away at college, suggesting that, but for his temporary time away at college, he would have met the residency requirement in Somerville. Again to ensure clarity, there is no credible evidence to show that the Appellants, including Sean Layton, resided in Somerville one year prior to taking the civil service examination. In regard to Sean Layton, there is no credible evidence to show that he ever resided any place other than his family's home in Wilmington, Massachusetts or at college in Burlington, Vermont within the one-year window preceding the civil service examination.

Finally, the Appellants suggest that the Commission has failed to meet its core mission of guarding against political and personal bias in hiring decisions. They are mistaken. There is sufficient evidence to show that the decision to initially appoint the Laytons was influenced by inappropriate personal considerations, including the decision of the Fire Chief to verify the Laytons' residency by consulting with their father, a Somerville firefighter. The City's decision to overlook valid questions regarding the Laytons' residency resulted in unfair treatment that harmed other candidates who did meet the residency requirement.

Since the Motion for Reconsideration did not identify a clerical or mechanical error in the decision or a significant factor the Commission or the presiding officer may have overlooked in deciding the case, the motion for reconsideration is denied.

Civil Service Commission

Christopher C. Bowman
Chairman

By a 3-1 vote of the Civil Service Commission (Bowman, Chairman – Yes; Henderson, Commissioner – No; McDowell, Commissioner – Yes; Stein, Commissioner – Yes [Marquis – Absent]) on December 15, 2011.

A true record. Attest:

Commissioner

Notice to:

Paul T. Hynes, Esq. (for Appellants)

Robert V. Collins, Esq. (for Appointing Authority)

John Marra, Esq. (HRD)