

COMMONWEALTH OF MASSACHUSETTS

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

ROBERT MAILEA,
Appellant

v.

B2-20-096

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
Robert Mailea

Appearance for Respondent:

Patrick Butler, Esq.
Human Resources Division
100 Cambridge Street, Suite 600
Boston, MA 02114

Commissioner:

Christopher C. Bowman

DECISION ON MOTION FOR SUMMARY DECISION

On June 19, 2020, the Appellant, Robert Mailea (Appellant), acting pursuant to G.L. c. 31, § 22, timely appealed to the Civil Service Commission (Commission), contesting the decision of the Respondent, the Massachusetts Human Resources Division (HRD), to credit him with 6 “Education and Experience” points for his master’s degree, as opposed to the 9 points he was requesting on the Correctional Program Officer C (CPO C) promotional examination.

On July 7, 2020, I held a pre-hearing conference via videoconference which was attended by the Appellant and counsel for HRD. HRD subsequently filed a Motion for Summary Decision and the Appellant filed an opposition.

Based on the submissions and the statements made at the pre-hearing conference, the

following appears to be undisputed:

1. The Appellant is employed at the Massachusetts Department of Correction (DOC).
2. On February 15, 2020, the Appellant took the promotional examination for CPO C, administered by HRD.
3. The Appellant received a “written score” of 90 and an Education and Experience (E&E) score of 79.6, for a total score of 86.
4. On June 11, 2020, HRD established an eligible list for CPO C. The Appellant is tied with 17 other applicants for 11th on the eligible list.
5. If his appeal is allowed, it would result in his rank on the eligible list being improved.
6. HRD provides CPO C applicants with 9 E&E points for a master’s degree from a regionally accredited college or university in any of the following majors: “Counseling, psychology, social work, sociology or criminal justice.”
7. HRD provides CPO C applicants with 6 E&E points for a master’s degree from a regionally accredited college or university “in a major not listed [above].”
8. At the time of the examination, the Appellant had a master’s degree in public administration from Anna Maria College with a “criminal justice specialization.”
9. Courses completed by the Appellant included: Executive Leadership; Strategic Management of Human Capital; Management Policies of Government Finance; Organization Theories; Public Policy; Managerial Statistics; Strategic Planning; Ethical Theory; Community Partnerships; Criminal Justice Administration; Criminal Justice and Public Policy; and a “Capstone” final assignment in which the Appellant compared the leadership development and training programs for various states.

Summary Decision Standard

Section 1.01(7)(h) of the applicable standard adjudication Rules of Practice and Procedure at 801 CMR provides that, “When a Party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he is entitled to prevail as a matter of law, the Party may move, with or without supporting affidavits, for summary decision on the claim or defense. If the motion is granted as to part of a claim or defense that is not dispositive of the case, further proceedings shall be held on the remaining issues”. 801 CMR 1.01(7)(h). The notion underlying the summary decision process in administrative proceedings parallels the civil practice under Mass.R.Civ.P.56, namely, when no genuine issues of material fact exist, the agency is not required to conduct a meaningless hearing. See Catlin v. Board of Registration of Architects, 414 Mass. 1, 7 (1992); Massachusetts Outdoor Advertising Counsel v. Outdoor Advertising Board, 9 Mass.App.Ct. 775, 782-83 (1980).

Applicable Civil Service Law

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, 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, § 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.

G.L. c. 31, § 2(b) addresses appeals to the Commission regarding persons aggrieved by “... any decision, action or failure to act by the administrator, except as limited by the provisions of section twenty-four relating to the grading of examinations ...” It provides, *inter alia*,

“No decision of the administrator involving the application of standards established by law or rule to a fact situation shall be reversed by the commission except upon a finding that such decision was not based upon a preponderance of evidence in the record.”

In Cataldo v. Human Resources Division, 23 MCSR 617 (2010), the Commission stated that

“... under Massachusetts civil service laws and rules, HRD is vested with broad authority to determine the requirements for competitive civil service examinations, including the type and weight given as ‘credit for such training and experience as of the time designated by HRD.’ G.L. c. 31, § 22(1).”

Parties’ Arguments

The Appellant effectively argues that his master’s degree in public administration with a “criminal justice specialization” should be considered equivalent to a master’s degree in criminal justice because some of the courses deal with criminal justice-related issues. Even, however, if it is not deemed equivalent, the Appellant argues that a master’s degree in public administration should qualify for 9 points given the value that candidates with such a degree offer to DOC in general and CPO Cs specifically.

HRD argues that the Appellant is not an aggrieved person since HRD applied a uniformly enforced standard that grants candidates with a master’s degree in public administration 6 points and candidates with a master’s degree in criminal justice 9 points. Since the Appellant does not have a master’s degree in criminal justice, he was correctly awarded 6 points.

Analysis

The Appellant appears to be a dedicated DOC employee who is passionate about his career in public service. He is making smart decisions regarding his education and professional goals that will benefit DOC and the Commonwealth. The issue before the Commission, however, is whether

the Appellant is an aggrieved person. For the reasons discussed below, he is not.

First, HRD's determination that a master's degree in public administration with a criminal justice specialization is not equivalent to a master's degree in criminal justice is not arbitrary and capricious. Rather, it is a logical, reasonable determination based on the fact that the "specialization" designation appears to only require that 3 criminal-justice courses be completed to obtain this specialization. Logic and commonsense dictate that this is not equivalent to a master's degree in criminal justice. At the pre-hearing conference, the Appellant conceded that it could be somewhat duplicative to obtain a master's degree in criminal justice, having already obtained a bachelor's degree in criminal justice.

In regard to the Appellant's argument that a master's in public administration is just as valuable as a master's in criminal justice for CPO C candidates, the Appellant has not shown that HRD's determination, which is made in cooperation with DOC, is unreasonable, illogical or arbitrary and capricious. Further, there is no evidence that the Appellant was treated differently than any other applicants. Rather, HRD, acting as the Personnel Administrator, uniformly implemented a reasonable grading system for all applicants. For these reasons, the Appellant is not an aggrieved person and intervention by the Commission is not warranted.

Conclusion

HRD's Motion for Summary Decision is allowed and the Appellant's appeal under Docket No. B2-20-096 is *dismissed*.

Civil Service Commission

Christopher C. Bowman
Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on September 24, 2020.

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 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:

Robert Mailea (Appellant)

Patrick Butler, Esq. (for Respondent)