

**COMMONWEALTH OF MASSACHUSETTS**  
**CIVIL SERVICE COMMISSION**  
100 Cambridge Street – Suite 200  
Boston, MA 02114  
617-979-1900

**ARMANI MARSMAN,**  
*Appellant,*

v.

**BOSTON POLICE DEPARTMENT,**  
*Respondent*

Docket Numbers: G1-23-156, G1-24-082

Appearance for Appellant: James Gilden, Esq.  
173 N Main St  
Sharon, MA 02067

Appearance for Respondent: Joseph McClellan, Esq.  
Boston Police Department  
Office of the Legal Advisor  
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Boston, MA 02120

Commissioner: Angela C. McConney<sup>1</sup>

**SUMMARY OF DECISION**

The Boston Police Department has proven by a preponderance of the evidence that it had reasonable justification to bypass the Appellant for original appointment to the position of permanent full-time police officer, based on untruthfulness, past work performance and attendance issues.

**DECISION**

On August 22, 2023, the Appellant, Armani Marsman (Appellant or Mr. Marsman),

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<sup>1</sup> The Commission acknowledges the assistance of Law Clerk Camryn Given with the preparation of this decision.

pursuant to G.L. c. 31, § 2(b), timely appealed to the Civil Service Commission (Commission) the July 20, 2023, decision of the Boston Police Department (BPD or Department), the Appointing Authority, to bypass him for original appointment to the position of permanent, full-time police officer. As reasons therefor, the BPD cited Mr. Marsman's untruthfulness, past work performance and attendance issues.

The Commission conducted a remote pre-hearing conference on September 26, 2023. On December 5, 2023, I conducted a full evidentiary hearing at the offices of the Commission, located at 100 Cambridge Street, Boston MA.<sup>2</sup> The hearing was recorded via Webex.<sup>3</sup> The parties submitted their post hearing briefs in March 2023, whereupon the administrative record closed.

*Consolidation of Docket Numbers G1-23-156 and G1-24-082*

While the appeal filed on August 22, 2023 was pending, Mr. Marsman filed another appeal after the Department bypassed him again on May 1, 2024. That appeal was docketed as G1-24-082. The Commission conducted a remote pre-hearing conference in the second matter on July 9, 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 G1-23-156 and G1-24-082.

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<sup>2</sup> 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.

<sup>3</sup> 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.

## FINDINGS OF FACT

I admitted six exhibits into evidence (Exhibits 1-6). I admitted the September 22, 2023 letter from the state's Human Resources Division as Exhibit 7.

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

*Called by the Department:*

- Mr. A., former owner of the X Towing Company
- Detective William Kelley, Recruit Investigations Unit, Boston Police Department
- Superintendent Phillip Owens, Former Deputy, Internal Affairs and Recruit Investigations, Boston Police Department

*Called by the Appellant:*

- Armani Marsman, 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 all the credible evidence, I make the following findings of fact:

1. Armani Marsman is a resident of the City of Boston, and studies criminal justice at a local community college. (Testimony of Appellant)

2. From September 2013 to 2023, Mr. Marsman operated buses for the MBTA. (Exhibits 2 and 3; Testimony of Appellant)

3. The Department bypassed Mr. Marsman for the position of permanent full-time police officer in 2019 after he failed a required evaluation. After Mr. Marsman appealed, the Commission accepted the mutual agreement of the parties and, pursuant to the powers of relief inherent in Chapter 534 of the Acts of 1976 as amended by Chapter 310 of the Acts of 1993, directed the state Human Resources Division (HRD) to place him at top of any current or future certification. *Marsman v. Boston Police Dep't*, Docket No. G1-19-249 (Mar. 12, 2020). (Exhibits 2, 3 and 6)

4. The Department considered Mr. Marsman during the 2020 hiring cycle, but determined that he had “failed to complete” the application. Upon receiving additional information, the Department acknowledged that the 2020 application process constituted a bypass: with said non-selection made without informing Mr. Marsman or conforming to civil service requirements. Further, he deserved another consideration for appointment to the Department based on a new, independent, and thorough review of his background and qualifications. The Commission found that Mr. Marsman’s non-selection infringed his civil service rights through no fault of his own and ordered that Mr. Marsman’s name be placed first again on the current and all future certifications for appointment to the Department. *Marsman v. Boston Police Dep’t*, Docket No. E-21-146 (May 20, 2022). (Exhibits 2 and 6)

5. Mr. Marsman reapplied to the Department in 2021 after passing the June 12, 2021 civil service examination. When he failed to appear for a March 26, 2021 scheduled medical evaluation, the Department bypassed him. However, the Department neither sent him a bypass letter nor informed him of appeal rights. Nonetheless, Mr. Marsman appealed to the Commission. (Exhibits 2, 6 and 7; Testimony of Appellant)

6. The Commission docketed the appeal as Docket No. G1-21-146 and scheduled an evidentiary hearing for April 19, 2022.

7. On May 20, 2022, the Commission ordered relief be granted to Mr. Marsman pursuant to Chapter 310 of the Acts of 1993. Mr. Marsman was reinstated on the Department’s eligible list. (Exhibit 7; Stipulated Facts)

8. On September 1, 2021, the state’s Human Resources Division (HRD) established an eligible list of candidates for police officer. (Exhibit 7)

9. HRD issued certification no. 08848, upon which Mr. Marsman's name appears in position 15. (Exhibit 7)

10. On July 20, 2023, the Department informed Mr. Marsman of its decision to bypass him. (Exhibit 1)

11. On August 22, 2023, the Appellant filed a timely appeal with the Commission.  
(Stipulated Facts)

*The Appellant's Application*

12. On February 16, 2021, Mr. Marsman submitted a notarized application to the Department. (Exhibit 2)

13. The Department's application included a "Declaration of Acceptance" stating:

... I am aware that willfully withholding information or making false statements on this application will be the basis of rejection of my application, or dismissal from the Boston Police Department.

(Exhibit 3)

14. On his application, under the heading "Employment History," Mr. Marsman answered "No" to the following questions:

Have any of the following happened to you during the course of employment?:

1. Terminated from a job?
2. Resigned/quit a job after being told you would be terminated?
3. Left a job by agreement?
4. Left a job under unfavorable circumstances?"

(Exhibit 3; Testimony of Appellant)

15. Under the same heading, the Department included the following question:

List all employment within the past ten (10) years beginning with the most recent going backward. Include full-time, part-time, summer, and work-study employment. You may also include any verified work performed on a voluntary basis...

(Exhibit 3; Testimony of Appellant)

16. In response to the previous question, Mr. Marsman responded that he worked for X Towing from March 2010 to July 2013. (Exhibits 2 and 3; Testimony of Kelley)

17. Mr. Marsman's employment with X Towing ended when the police arrived after he tried to tow a car. (Exhibit 2; Testimony of Appellant)

18. Mr. Marsman responded, "Yes," in response to the following application question under the heading of "Employee Discipline":

Have you ever received a written warning, been officially reprimanded, suspended or disciplined for any misconduct in the workplace, including, but not limited to, use of accrued time and violation of a company policy of security rule?

(Exhibit 3)

19. Mr. Marsman included the following statement:

Yes, I've given a written warning from my job because I called sick twice in same month triggering the attendance tool. I also receive 3-day suspension for a red light violation. Per-ordered of Union contract my discipline records have been taken off.

(Exhibit 3; Testimony of Appellant)

### *Background Investigation*

20. Det. Kelley has worked in the Recruit Investigations Unit (RIU) of the Department since 2020. In this capacity, he conducts background checks on candidates for police officer. (Testimony of Kelley)

21. As part of an investigation, Det. Kelley contacts the applicant's references and neighbors, searches databases for reports on the candidate, reviews the candidate's application, and reaches out to the candidate's past and present employers. (Testimony of Kelley)

22. The Department assigned Det. William Kelley to conduct Mr. Marsman's background investigation. (Testimony of Kelley)

23. Det. Kelley followed the above-described procedure for Mr. Marsman's background investigation. Because Mr. Marsman had applied to the Department before, a PCM had already been created for him, rendering it unnecessary for Det. Kelley to redo every step of the prior investigations. (Exhibit 2; Testimony of Kelley)

24. Det. Kelley learned that in a previous hiring cycle, Mr. Marsman had asserted that he missed his March 26, 2021 medical appointment because he had worked at X Towing Company the night before, fallen asleep in his car after work from 11 p.m. to 7 a.m., failing to wake up in time for his Department appointment. Mr. Marsman also said that he was not paid for his work at X Towing from March 25-26, 2021. (Exhibits 2 and 6)

25. Det. Kelley reached out to Mr. A. to inquire about the statement. Mr. A. told Det. Kelley that in no circumstances would he allow anyone to work for free at X Towing and that he did not let Mr. Marsman do so. Mr. A. stated that, for liability and insurance purposes, allowing someone to work without pay was too much of a risk. (Exhibit 2; Testimony of Kelley)

26. Det. Kelley also spoke to the current manager of X Towing. The manager agreed that no one would be allowed to work for free. The manager searched but did not find any record that Mr. Marsman worked for X Towing on March 26, 2021. (Exhibit 2; Testimony of Kelley)

27. During the Department's previous investigations into Mr. Marsman, the assigned detectives were not able to obtain attendance or disciplinary records from the MBTA. (Exhibit 2)

28. One of Mr. Marsman's supervisors at the MBTA, Ms. Smith, was contacted during a prior investigation. On July 3, 2020, the investigator spoke to Ms. Smith to confirm her reference for Mr. Marsman. She made positive statements about Mr. Marsman and said she would rehire him. (Exhibit 2)

29. On February 23, 2023, Det. Kelley spoke to another of Mr. Marsman's supervisors at the MBTA. Superintendent Romain gave Mr. Marsman a good recommendation and said that he had left the job on good terms and would be re-hirable. (Exhibit 2)

30. Det. Kelley obtained Mr. Marsman's 54-page disciplinary and attendance file. (Exhibit 2; Testimony of Kelley)

31. After reviewing the file, Det. Kelley determined that Mr. Marsman had at least four written warnings and three suspensions, one of which was rescinded, while employed by the MBTA. (Exhibit 2; Testimony of Kelley)

32. The four written warnings were all for unexcused absences at work during different periods from 2014 to 2020. (Exhibits 2 and 4; Testimony of Kelley)

33. Mr. Marsman was suspended for three days in 2018 for a safety violation after running a red light. In 2019, he was suspended for one day for being AWOL (absent without leave). Mr. Marsman was suspended for three days for being AWOL in 2019. Another three-day suspension in 2019 was rescinded. (Exhibits 2 and 4)

34. Mr. Marsman's record indicated to Det. Kelley that Mr. Marsman had insubordination issues. As noted in his file, Mr. Marsman had become agitated, uncooperative, and confrontational when supervisors at the MBTA addressed concerns with his attendance. Det. Kelley detailed instances in which Mr. Marsman had to meet with a supervisor at the MBTA and Mr. Marsman walked out, refused to sign paperwork, and denied fault. (Exhibit 2; Testimony of Kelley)

35. Det. Kelley made the following note in Mr. Marsman's PCM:

After reviewing the applicant's attendance and disciplinary record it is clear to Det. Kelley that applicant has problematic issues with attendance, as well as having a considerable problem dealing with persons of authority in a proper and orderly manner.



(Exhibit 2)

36. Det. Kelley updated the existing PCM with new information he obtained during his investigation. (Exhibit 2)

*Roundtable Decision*

37. After the PCM is completed, the assigned investigator presents the findings on an applicant to a roundtable. The roundtable is composed of representatives from the Department's Human Resources Department, the Internal Affairs Department (IAD) and counsel from the Legal Department, but only the HR and IAD representative may vote. The roundtable makes the ultimate decision on whether to bypass a candidate or to grant a conditional offer of employment. (Testimony of Kelley and Owens)

38. If the roundtable has any additional questions after the presentation, they will ask the detective to complete a discretionary interview with the applicant. (Testimony of Kelley)

39. Det. Kelley presented the updated PCM to the roundtable on or about February 23, 2023. Superintendent Philip Owens represented IAD. The roundtable asked Det. Kelley to conduct a discretionary interview to clarify Mr. Marsman's disciplinary record given the inconsistencies between his application and his file. (Exhibit 2; Testimony of Kelley)

40. On April 5, 2021, Det. Kelley conducted the discretionary interview with Mr. Marsman. (Exhibit 2; Testimony of Kelley)

41. During the interview, Mr. Marsman stated that all three suspensions of his at the MBTA were for the same issue and were thus all rescinded. (Exhibit 2)

42. Later in the interview, Mr. Marsman stated he was not aware he had to specify in his application how many violations he received. (Exhibit 2)

43. Det. Kelley asked Mr. Marsman if he omitted the violations in his application because he did not recall them or because he believed they were no longer on his record. Mr. Marsman said it was because they had been removed from his record. (Exhibit 2)

44. Det. Kelley contacted the MBTA to determine how long infractions stay on an employee's record. He received the following response:

Employee discipline records are kept in their file throughout the length of their employment. If they work here for 23 years, their file will accumulate any and all disciplines they receive. After they leave the authority, their file is archived for a number of years before they are destroyed. I believe it is by law which may be seven years. – Not sure.

The second question of "How long discipline records may or may not stay on someone's record" depends on the infraction. When we issue discipline, it is progressive in nature (unless you really screw up in which case you may be terminated without any steps). With that said, if you have a single violation, it drops off your record in accordance to the following tracks:

- Attendance – 12 Months
- General Rules – 24 Months
- Accidents – 24 Months
- Safety – 48 Months

Subsequent violations restart the clock to 0. If you have no other violations in the prescribed time period, the discipline drops off your record and it cannot be used against you progressively or for a promotion.

(Exhibit 2)

45. Det. Kelley noted in the PCM that he found Mr. Marsman's explanation of the discrepancies to be untruthful. (Exhibit 2; Testimony of Kelley)

46. Supt. Owens will typically review a candidate's PCM the night before the roundtable meets. He followed that protocol for Mr. Marsman. (Testimony of Owens)

47. The roundtable was concerned about Mr. Marsman's truthfulness and his history of discipline. Both issues would independently be grounds for bypass from the Department.

(Testimony of Owens; Exhibit 1)

48. If a candidate had worked “under the table” for an employer and disclosed such on their application, the Department would not have found it to be a significant issue. The Department emphasizes candor. (Testimony of Owens)

49. New police officers are expected to take criticism during the job, and officers are expected to remain professional and integrate corrective action. The roundtable doubted Mr. Marsman’s ability to meet these expectations. (Testimony of Owens)

50. Supt. Owens was also concerned with Mr. Marsman’s poor attendance history. Attendance is important for police officers to ensure there is enough manpower at the Department. (Testimony of Owens)

51. Supt. Owens held one of the two votes on the roundtable at this time; he and the HR representative voted to bypass Mr. Marsman. (Testimony of Owens)

52. In a July 20, 2023 notice, the Department informed Mr. Marsman of his bypass. As reasons therefor, the Department cited Mr. Marsman’s history of discipline with the MBTA, and his failure to be forthcoming in his application. (Exhibit 1; Testimony of Owens)

53. In the bypass letter, the Department included the following statement about the importance of truthfulness for police officers:

Truthfulness is an essential job requirement for a 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 a police officer, and therefore it is essential that an officer’s integrity and credibility are intact. ... your untruthfulness, as well as the other concerns detailed herein, deems you unsuitable for employment as a Boston Police Officer.

(Exhibit 1)

*Additional Information from the 2023 Hearing*

54. Mr. Marsman has a pending civil suit alleging discrimination against the MBTA and some of its employees. (Testimony of Appellant)

55. Mr. A., the former owner of X Towing, exchanged text messages with Mr. Marsman in which Mr. Marsman agreed to work for the towing company on several occasions in March of 2021. (Exhibit 5; Testimony of Appellant)

56. At one point during that month, Mr. Marsman told Mr. A. that he was “taking this week off” via text message. (Exhibit 5; Testimony of Appellant)

57. On March 25, 2021, Mr. A. sent a text message to Mr. Marsman asking, “Are you coming in tonight?” Mr. Marsman replied “Yeah”. (Exhibit 5; Testimony of Appellant)

58. In 2021, Mr. Marsman was not an official employee of X Towing but did work shifts there. I find that Mr. A. paid Mr. Marsman for the work. (Testimony of A., Testimony of Appellant)

### ***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**

By a preponderance of the evidence, I find that the Department had reasonable justification to bypass Mr. Marsman for original appointment to the position of permanent full-time police officer.

After a review of Det. Kelley's background investigation, I find that he acted according to procedure and conducted a thorough review of the relevant materials. I acknowledge that Det. Kelley used the foundation of a previous PCM for his background investigation, but updated matters with new information, including the discretionary interview conducted upon request of the roundtable. Based on his adherence to procedure and his in-depth review of the record, I find that Det. Kelley conducted a fair investigation.

The Department cited three reasons for Mr. Marsman's bypass: his untruthfulness about his employment history, his untruthfulness about his disciplinary history, and the behavior that resulted in the discipline. I now weigh each of these stated reasons.

*First bypass reason: Untruthfulness regarding employment history*

During Det. Kelley's investigation, he spoke with both the current and former owners of X Towing, who both said that they would not permit an employee to work for free. Despite the liability issue, the former owner of the towing company testified in 2023 that he allowed Mr. Marsman to work as a favor.

These are conflicting statements and there is a lack of payroll records. However, it remains clear that Mr. Marsman failed to properly disclose his 2010-2013 employment at the tow company to the Department, and that he was no longer thus employed in March 2021. Hence, the Department's concerns regarding Mr. Marsman's lack honesty about his employment history are justified. I find the first bypass reason qualifies as a valid reason for bypass.

*Second bypass reason: Failure to disclose discipline with the MBTA*

Mr. Marsman failed to be fully transparent about his disciplinary history during his employment with the MBTA. Mr. Marsman stated on his application that he had received one warning and one suspension, but Det. Kelley determined that this was not the entire truth. While

at the MBTA, Mr. Marsman received four warnings and four suspensions (one being rescinded.) Initially, during his discretionary interview with Detective Kelley, Mr. Marsman stated that all the suspensions were for the same offense. However, Mr. Marsman's MBTA record shows that the suspensions were for different reasons. Therefore, Mr. Marsman's initial statement to Det. Kelley was not true. Mr. Marsman then explained that he thought the discipline he had received was no longer on his record per his union contract.

In comparing this explanation and his disciplinary record, one can draw the fair conclusion that Mr. Marsman was again not truthful. While Mr. Marsman may have believed the discipline was no longer on his record, the Department asked if he had *ever* received discipline from an employer, not if there *was* discipline on his record. Even if I give Mr. Marsman the benefit of the doubt on his explanation, I still have concerns. Mr. Marsman listed his 2016 suspension for a red-light violation and a 2016 warning for attendance as the discipline on his application. If Mr. Marsman believed that some of his infractions were no longer on his record, why would he list two of his earliest infractions? Based on MBTA's policy, the earlier infractions would have been the first to be removed from his record. Therefore, I draw the conclusion that Mr. Marsman was not telling the truth about why he did not list his full disciplinary history with the MBTA. Furthermore, Det. Kelley had a reasonable basis for finding that Mr. Marsman was untruthful during their conversation.

I find that Mr. Marsman's failure to be forthright about his disciplinary history with the MBTA is a valid reason for bypass and would stand as a sole reason for bypass.

The Commission has consistently recognized that "a police officer must be truthful at all times," and "failure to do so constitutes conduct unbecoming an officer." *MacHenry v. Wakefield*, 7 MCSR 94 (1994). Indeed, there is a "strong public policy against employing police officers

who are untruthful.” *Royston v. Billerica*, 19 MCSR 124, 128 (2006). To that end, 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 281, 285 (2005). As such, allegations of untruthfulness ought to be made with an appropriate degree of seriousness and investigated with sufficient diligence. See, e.g., *Morley v. Boston Police Dep’t*, 29 MCSR 456 (2016).

Untruthfulness can damage an officer’s ability to testify in court proceedings, a fundamental job requirement for a police officer. As a result, the Commission generally must defer to the judgment of a law enforcement agency on this point, which is lawfully grounded in constitutional law. See generally, *United States v. Agurs*, 427 U.S. 97, 108, 96 S. Ct. 2392, 2400 (1976), citing *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963). In addition, the Department’s application warned Mr. Marsman of the potential disqualification of his candidacy if he was untruthful on his application. In a thorough assessment of Mr. Marsman’s application, Det. Kelley’s investigation, Mr. Marsman’s disciplinary history, and his testimony at the Commission, I have found Mr. Marsman to be untruthful.

*Third bypass reason: Behavioral concerns*

In Mr. Marsman’s bypass letter, the Department noted it had concerns with Mr. Marsman’s history of attendance issues and insubordination. An employee’s attendance is important to the Department. To create schedules and ensure there are enough officers working at any given time, the Department relies on its officers to be present and accounted for. Mr. Marsman had received written warnings on four occasions and two suspensions for having unexcused or unreported absences. Based on this history, it was fair for the Department to find that Mr. Marsman has issues with attendance. While Mr. Marsman may have an explanation for



some or all of the absences, he did not clarify such in his application or in the record. I find it reasonable for the Department to consider Mr. Marsman's history of poor work attendance.

According to Mr. Marsman's disciplinary record, he has engaged in questionable behavior when dealing with superiors. Mr. Marsman walked out of a meeting with a supervisor and refused to sign a document. Former supervisors stated that Mr. Marsman became agitated and demanding in meetings. As police officers are expected to receive criticism respectfully from supervisors and apply it to their work, this type of behavior reasonably concerned the Department.

I find that Mr. Marsman's history of workplace behavior and attendance is a valid reason for bypass. In conjunction with his issues of untruthfulness, the Department has demonstrated strong concerns with Mr. Marsman's candidacy for police officer. While the issues with truthfulness alone would certainly be grounds for his bypass, the disciplinary issues give the Department further justification to bypass Mr. Marsman.

#### *Alleged bias*

Although Mr. Marsman alluded to potential bias from the MBTA because of a lawsuit he is involved in, I do not find that to be of concern. Mr. Marsman spoke of a civil suit he has brought against several members of the MBTA, including a supervisor quoted in his PCM. The bases for Mr. Marsman's bypass did not reflect reliance on these supervisory reports but rather on his own statements in his PCM, his application, and his statements at prior hearings. In any event, bias should not have precipitated Mr. Marsman's own untruthfulness. Further, Mr. Marsman did not bring forward any exhibit or evidence that shows that bias played a role.

## CONCLUSION

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

At the July 9, 2024 Prehearing Conference, the Commissioner allowed the parties' motion to consolidate Docket No. G1-23-156 and Docket No. G1-24-082 because the bypass appeals were similar.

The appeals of Armani Marsman as filed under Docket Numbers are G1-23-156 and G1-24-082 are hereby *denied*.

Civil Service Commission

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

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney, and Stein, Commissioners) on December 19, 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:

James Gilden, Esq. (for Appellant)  
Joseph McClellan, Esq. (for Respondent)