

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

JULIO MARTINEZ,
Appellant

v.

B2-19-204

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
Julio Martinez

Appearance for Respondent:

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

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On October 3, 2019, the Appellant, Julio R. Martinez (Sgt. Martinez), a sergeant in the New Bedford Police Department (NBPD), filed an appeal with the Civil Service Commission (Commission), contesting a decision by the state’s Human Resources Division (HRD) that he was ineligible to sit for a promotional examination for police lieutenant held on September 21, 2019.
2. On October 15, 2019, I held a pre-hearing conference at the offices of the Commission which was attended by Sgt. Martinez and counsel for HRD.
3. There is a two (2)-prong test for eligibility to sit for this promotional examination. The candidate must (1) be serving in the next lower title (in this case, police sergeant) on the date of the (lieutenant) promotional examination; and (2) the candidate must have been “employed in the force” for at least one year after the candidate’s name was first certified for appointment in the next lower title. see G.L. c. 31, s. 59; see also O’Donoghue v. HRD, 27 MCSR 485 (2014); Nicholas v. HRD, 29 MCSR 358; Weinburgh v. Civil Service Comm’n, 72 Mass. App. Ct. 535, 538 (2008).
4. At the pre-hearing conference, I reviewed documentation showing that Sgt. Martinez’s name first appeared on a Certification for the lower title of Police Sergeant on November 29, 2018.

5. Based on the above information, Sgt. Martinez could not have served in the force for one year after his name was first certified for appointment in the next lower title at the time of the police lieutenant examination on September 21, 2019.
6. Via a Procedural Order dated October 25, 2019, I gave Sgt. Martinez until Friday, November 1st to notify the Commission if he still wished to pursue his appeal. I received no reply.

For all of the above reasons, Mr. Martinez's appeal under Docket No. B2-19-204 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on November 21, 2019.

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:

Julio Martinez (Appellant)
Patrick Butler, Esq. (for Respondent)