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COMMONWEALTH OF MASS  
CIVIL SERVICE COMMISSION

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT  
CIVIL ACTION  
No. 2014-00715-C

STEPHEN F. MCDONOUGH

vs.

MASSACHUSETTS CIVIL SERVICE COMMISSION  
and DEPARTMENT OF STATE POLICE

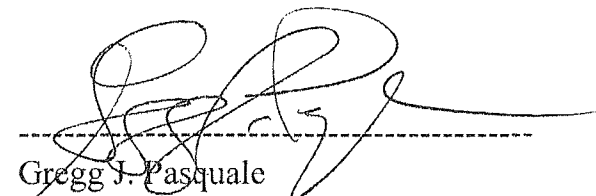
MEMORANDUM AND DECISION ON PLAINTIFF'S MOTION FOR  
JUDGMENT ON THE PLEADINGS

After hearing, and having reviewed the certified record of the administrative proceedings and the memoranda of counsel, the Court concludes that the plaintiff has not established that the Civil Service Commission lacked substantial evidence to support its finding of fact that the plaintiff committed four separate violations of the State Police Rules and Regulations when he traded insults with a trooper and then punched him in the face. The plaintiff claimed that he acted in self defense and used reasonable force to defend himself. It appears from the record that the trooper was the initial aggressor and that the plaintiff took many steps to avoid the confrontation. However, the administrative judge appeared to take all of these factors into consideration and found that the degree of force that the plaintiff used under the circumstances was excessive. While this Court might have come to a different conclusion based on the record, this Court did not have

the benefit of assessing the parties' credibility which is crucial especially when considering the issue of self defense and the degree of force used in an attempt to repel the threat of bodily harm. It has long been held that "[ a reviewing court may not displace [ the magistrate's ] choice between two fairly conflicting views, even though the court would...have made a different choice had the matter been before it de novo." *S. Worcester v. Sch. Dist. V. Labor Rel. Comm.*, 386 Mass. 414, 420 (1982). Accordingly, the Court is bound by the Civil Service Commission's findings, which compels the conclusion, as a matter of law, that the plaintiff violated four provisions of the State Police Rules and Regulations. The decision of the Civil Service Commission must be affirmed.

### CONCLUSION AND ORDER

For the reasons stated, the Plaintiff's Motion for Judgment on the Pleadings is DENIED. Judgment on the pleadings shall enter affirming the decision of the Civil Service Commission.

  
Gregg J. Pasquale  
Associate Justice of the Superior Court

December 19, 2014