

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

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

**CARLA-JANE  
MORIARTY,**

*Appellant*

v.

**HUMAN RESOURCES  
DIVISION,**

*Respondent*

**Case No.:** B1-14-194

**ORDER OF DISMISSAL**

On August 7, 2014, the Appellant, Carla Jane Moriarty (Ms. Jane Moriarty), pursuant to G.L. c. 31, § 2(b) filed an appeal with the Civil Service Commission (Commission), contesting the decision of the state's Human Resources Division (HRD) that she failed the Physical Abilities Test (PAT) for permanent full-time police officer.

On September 2, 2014, I held a pre-hearing conference which was attended by Ms. Moriarty and counsel for HRD. HRD subsequently filed a Motion to Dismiss Ms. Moriarty's appeal, and despite being given thirty (30) days to reply, Ms. Moriarty did not file a reply.

It appears that the following is undisputed:

1. In June 2013, Ms. Moriarty took and passed the written examination for permanent, full-time police officer, which was administered by HRD.
2. In early July 2014, Ms. Moriarty received a conditional offer of employment for the position of permanent, full-time police officer in Walpole, MA.
3. As a condition of employment, Ms. Moriarty was required to take and pass a Physical Abilities Test (PAT) which is administered by HRD. G.L. c. 31, § 61A.
4. On or about July 17, 2014, Ms. Moriarty attended a PAT "preview".
5. On or about July 24, 2014, Ms. Moriarty took and failed the PAT.
6. On or about July 31, 2014, Ms. Moriarty, pursuant to her rights under Section 61A, re-took the PAT and failed a second time.

At the pre-hearing conference, Ms. Moriarty stated that she was not alleging that the PAT equipment was defective or that the test was administered in an unfair manner. Rather, Ms. Moriarty argues that she was not given sufficient time to prepare for the PAT.

Absent an allegation from an individual that they failed the PAT because it was improperly, arbitrarily or invalidly designed or administered, the Commission lacks jurisdiction to hear such appeals. See O'Brien v. HRD, 25 MSCR 53 (2012).

Here, Ms. Moriarty is not making any such allegations. Rather, she is arguing that, had she been given more time to prepare for the PAT, she might have passed. Even if such an argument fell under the purview of the Commission, Ms. Moriarty's appeal would fail as: 1) there is no evidence that any other candidate was given more preparation time; and 2) Ms. Moriarty knew, as June 2013, that she would be pursuing a career as a police officer, which would require the taking of the PAT. That is more than sufficient time to ensure that a candidate is physically fit enough to pass the PAT.

For these reasons, Ms. Moriarty's appeal under Docket No. B1-14-194 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman  
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell and Stein, Commissioners) on January 9, 2015.

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)(1), 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.

Notice to:

Carla Jane-Moriarty (Appellant)

Melinda Willis, Esq. (for Respondent)