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COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT OF THE COMMONWEALTH  
SUPERIOR COURT DEPARTMENT

Bristol, ss.

Civil Action No. BRCV2012-0908A

2013 FEB 27 P 1:00

CITY OF ATTLEBORO,  
Plaintiff,

COMMONWEALTH OF MASS  
CIVIL SERVICE COMMISSION

v.

MASSACHUSETTS CIVIL  
SERVICE COMMISSION and  
WILLIAM O'CONNELL,  
Defendants.

**ORDER ON MOTION TO REINSTATE  
DEFENDANT WILLIAM O'CONNELL**

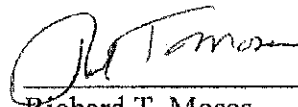
By decision dated July 26, 2012, the Massachusetts Civil Service Commission ("MCSC") determined and ordered that O'Connell's termination be modified to a ninety day suspension provided that his C.D.L. license remains currently valid and that he be restored to his position without loss of any other benefits. The City of Attleboro ("the City") has filed the within action pursuant to M.G.L. c. 30A, sec. 14 challenging the decision of the MCSC. The provisions of G.L. c. 31, sec. 44, while permitting such an appeal, provides that such a proceeding shall not, unless specifically ordered by the court, operate as a stay of an order of the MCSC. The City failed to reinstate O'Connell as ordered or to move for a stay of such order resulting in O'Connell moving for an order of reinstatement together with back pay. The City has filed a cross-motion to stay the aforesaid decision.

The court finds that the City has failed to make a sufficient showing at this late date that the reinstatement order should be stayed. There has been an insufficient showing of a likelihood of success on the merits or that there will be irreparable harm suffered in the event O'Connell's

employment is reinstated pending a hearing on the subject complaint.

The motion to reinstate is allowed to the extent that within ten days O'Connell's employment will be reinstated with benefits and subject to the following conditions:

1. O'Connell shall provide evidence that he currently has in effect a commercial driver's license;
2. in the event during the course of O'Connell's reinstatement the City provides any evidence demonstrating probable cause that during the course of O'Connell's employment is impaired by the consumption of alcohol the City may take appropriate action including without limitation the filing of an emergency motion with this court to issue a stay of the MCSC's order;
3. the court orders ,by agreement of counsel, that pending a determination of O'Connell's 30A appeal, the order of the MCSC relating to the payment of the back pay shall be stayed.



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Richard T. Moses  
Associate Justice of Superior Court

Dated: December 14, 2012