

COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION

Decision mailed: 8/12/08
Civil Service Commission *CS*

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

JOHN O'TOOLE,
Appellant
v.

HUMAN RESOURCES
DIVISION,
Respondent

Case No.: G1-07-405


**DECISION ON JOINT PETITION FOR RELIEF UNDER
CHAPTER 310 OF THE ACTS OF 1993**

The Appellant, John O'Toole, filed this appeal with the Civil Service Commission, pursuant to G.L. c.31, § 2(b), from alleged actions or inactions of the Massachusetts Human Resources Division (HRD) in connection with his requests for reinstatement to his former position as a police officer in the Boston Municipal Police Department (BMPD) pursuant to G.L. c. 31, §46.¹

On March 29, 2008, HRD filed a motion to dismiss the appeal on the grounds that the appeal was untimely, the Appellant did not have standing under Section 2(b), and that no Section 310 relief could be granted. The Appellant opposed this motion.

Prior to the scheduled hearing before the Commission on HRD's motion to dismiss, the Appellant and HRD submitted a Joint Petition for 310 Relief which would have granted the Appellant "an extension of his civil service reinstatement window pursuant to M.G.L.c. 31, §46 for the time period of August 15, 2008 to August 15, 2009".

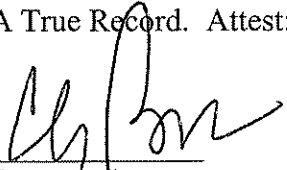
After carefully considering the Joint Petition, as well as the disputed issues presented by the Motion to Dismiss, and taking administrative notice of the history of the extensive prior Commission proceedings involving the civil service status of other former police officers in the now-defunct BMPD, the Commission concludes that the exercise of its discretion to grant the Section 310 relief in this matter is not now warranted. The Joint Petition for 310 Relief in this appeal is hereby, *denied*.

Civil Service Commission

Paul M. Stein
Commissioner

¹ The Appellant originally named the Boston Police Department (BPD) as a Respondent. By oral motion, the Appellant, with the assent of HRD, moved to dismiss the BPD as it is not a necessary or appropriate party to this appeal. The Commission agrees and the motion to dismiss BPD as a Respondent has been allowed.

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, Stein and Taylor, Commissioners) on August 7, 2008.

A True Record. Attest:



Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. The motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:

Leah Barrault, Esq. (for Appellant)

Tara Chisholm, Esq. (for Appointing Authority)

Martha O'Connor, Esq. (HRD)