

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200

Boston, MA 02114

(617) 979-1900

BALNI PIMENTEL, Jr.,

Appellant

v.

BOSTON FIRE DEPARTMENT,

Respondent

Docket Number:

G1-23-243

Appearance for Appellant:

Tony V. Blaize, Esq.
Law Office of Tony V. Blaize
186 State Street, Suite 6
Boston, MA 02109

Appearance for Respondent:

Robert J. Boyle, Jr., Esq.
Boston City Hall, Room 624
Boston, MA 02201

Commissioner:

Angela C. McConney

SUMMARY OF DECISION

The Commission affirmed the decision of the Boston Fire Department to bypass a candidate for firefighter based on his inconsistent answers provided during the hiring process.

DECISION

Pursuant to G.L. c. 31, § 2(b), the Appellant, Balni Pimentel, Jr. (Mr. Pimentel or Appellant), appealed to the Civil Service Commission (Commission) the October 3, 2023 decision of the Boston Fire Department (Department), bypassing him for original appointment to the position of permanent full-time firefighter. The Department based its decision on Mr. Pimentel's inconsistent statements in separate interviews.

The Commission held a pre-hearing conference on January 30, 2024 via remote videoconference. On July 18, 2024, I conducted the first day of evidentiary hearing at the offices

of the Commission, located at 100 Cambridge Street, Boston.¹ The witnesses were sequestered. On August 6, 2024, I conducted the second day of evidentiary hearing via the Webex platform.

I recorded both days of the evidentiary hearing via the Webex platform and forwarded a link to both parties.² The parties filed post hearing briefs in October 2024, whereupon the administrative record closed.

FINDINGS OF FACT

I admitted thirty exhibits from the Appellant (A. Exhibits 1-30).³ I admitted twenty-four exhibits from the Respondent (R. Exhibits 1-24). I also admitted the Appellant's appeal form as A. Exhibit 31 and the Stipulation of Facts as A. Exhibit 32. Based upon the documents entered into evidence and the testimony of:

Called by the Department:

- Richard Francis, Dep. Fire Chief, Boston Fire Department
- Lennie DeSouza, Director, Human Resources Department, Boston Fire Department
- Sgt. Keith Ledin, Department of State Police
- Edward Dominguez, Dominguez Investigations

Called by the Appellant:

- Balni Pimentel, Jr., Appellant
- Lipou Laliemhavisay, Esq., Appellant's prior criminal defense attorney

and taking administrative notice of all pleadings filed in this case, plus pertinent rules, statutes,

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. §§ 1.01 et seq. (Formal Rules) apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

² The Commission provided links to the audio/video recording to the parties. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. If such an appeal is filed, the recording provided to the parties should be used to transcribe the hearing.

³ I allowed the Appellant's motion to withdraw A. Exhibit 25 because it was duplicative of A. Exhibit 15.

regulations, case law and policies, and drawing reasonable inferences from the credible evidence, I make the following findings of fact:

Appellant's Background

1. Balni Pimentel, Jr. (Mr. Pimentel or Appellant) was born and raised in the City of Boston. (Testimony of Appellant)

2. Mr. Pimentel attended elementary school and middle school in South Boston. (Testimony of Appellant)

3. Around 15 years of age, Mr. Pimentel's family moved from South Boston to Mission Park. (Testimony of Appellant)

4. Mr. Pimentel lived in Mission Park until he graduated from high school in the Boston Public Schools system. (Testimony of Appellant)

5. Mr. Pimentel enlisted in the United States Marine Corps (USMC) in 2012 and spent the next four years mostly in California. He was deployed to Jordan and Saudi Arabia. Mr. Pimentel also served during the 2021 presidential inaugural events. (A. Exhibits 9 and 26; Testimony of Appellant)

6. Mr. Pimentel achieved the rank of sergeant and was honorably discharged in August 2016. He currently serves in the Massachusetts National Guard reserves. (A. Exhibits 9 and 26; Testimony of Appellant)

7. Mr. Pimentel worked in various industries after his discharge from the USMC. He currently works as a public school Hubs Coordinator, developing school partnerships, identifying and securing resources for families in need and resolving truancy. Mr. Pimentel worked as a teller manager in the banking industry in his immediate past position. (A. Exhibits 25 and 26; Testimony of Appellant)

Brief Overview of Three Bypasses by the Boston Fire Department

8. The Department bypassed Mr. Pimentel three separate times: the first in 2020, the second in 2021, and the third, which involves the current appeal, in 2023. (Testimony of Appellant)

9. The stated reasons for the 2020 bypass were poor employment history and inability to verify eligibility for residency preference. Mr. Pimentel did not appeal this 2020 bypass to the Commission. (A. Exhibit 17; Testimony of De Souza)

10. The stated reason for the 2021 bypass related solely to the inability to verify residency reference. Mr. Pimentel successfully appealed the Department's residency bypass to the Commission and the Commission issued a decision ordering that Mr. Pimentel's name be placed at the top of the next certification to ensure his reconsideration. (A. Exhibit 21)

11. Upon reconsideration, Mr. Pimentel was bypassed a third time, which is the subject of this appeal. The stated reason for bypass is alleged inconsistencies in statements made to the Department, including alleged inconsistencies between what he reported to the Department in his first application for employment and in the current hiring process. The alleged inconsistent statements involve an incident in Fall River in 2018 which resulted in criminal charges being filed against Mr. Pimentel, which were then *nolle prossed*. (R. Exhibit 17)

The 2018 Fall River incident

12. Sgt. Frank Ledin has worked for the Department of State Police (State Police) for 20 years, serving as sergeant for the past two and a half years. He now supervises the State Police Gang Unit, which partners with the Boston Police Department Youth Violence Strike Force. He also participates in multiple Federal Bureau of Investigation (FBI) task forces. (Testimony of Ledin)

13. On May 23, 2018, Sgt. Ledin and Sgt. Frank Walls, then a patrolman, were patrolling Baker and Buffington Streets, Fall River in an unmarked State Police cruiser. (R. Exhibit 9; Testimony of Ledin)

14. On May 23, 2018, Sgt. Ledin and Sgt. Walls were both dressed in street clothes and wore tactical vests with the words “State Police” on the front and the back. They wore their badges, indicia of their office. (R. Exhibit 9; Testimony of Ledin)

15. On that same day at 6:35 p.m., Mr. Pimentel was sitting in his parked motor vehicle, with the engine running, on Baker Street in Fall River. (R. Exhibit 9; Testimony of Ledin)

16. Sgt. Ledin and Sgt. Walls observed Mr. Pimentel’s idling motor vehicle but were unable to see inside because of the heavily tinted windows. When Sgt. Walls queried the license plate, a motor vehicle registration from the Boston neighborhood of Mattapan returned. The troopers kept their eye on the motor vehicle and continued their patrol around the block. When the troopers returned to the Baker Street vicinity, the motor vehicle was still parked and running. (R. Exhibit 9; Testimony of Ledin)

17. Police reports reviewed by the Department and submitted to the Commission as part of this appeal detail the interactions between the police officers and Mr. Pimentel. (R. Exhibit 9)

18. Sgt. Ledin identified himself as a State Police trooper and asked Mr. Pimentel, the sole occupant of the vehicle, for identification. Mr. Pimentel handed over his driver’s license and military identification, and said that he was from Boston, visiting a friend. Sgt. Ledin asked if the friend lived on Baker Street. Mr. Pimentel said, “Yes, right here,” and pointed to the address of 36 Baker Street. (R. Exhibit 9; Testimony of Ledin)

19. Mr. Pimentel then told Sgt. Ledin that he had just gotten out of the Marine Corps in 2016. Sgt. Walls identified himself as a USMC veteran as well. During the exchange, Sgt. Ledin observed that Mr. Pimentel was overly nervous, speaking in a shaky manner, and breathing so heavily that his chest moved in and out at an abnormally fast rate. As the conversation progressed, Mr. Pimentel grew more and more nervous, and began to shake. From the troopers' training, they concluded that Mr. Pimentel was exhibiting signs of extreme nervousness beyond his control. (R. Exhibit 9; Testimony of Ledin)

20. Mr. Pimentel then said that his friend lived on Buffington Street, although he had earlier identified the friend's address as 36 Baker Street. Sgt. Ledin then placed his hand on Mr. Pimentel's shoulder and told him to relax. Through his military service and his State Police experience and training, Sgt. Ledin knew that it was unusual for individuals with military experience to be so nervous that they would be unable to control themselves. (R. Exhibit 9; Testimony of Ledin)

21. Ultimately, Sgt. Ledin asked Mr. Pimentel to step out of the motor vehicle. Mr. Pimentel complied. (R. Exhibit 9; Testimony of Ledin)

22. Sgt. Ledin pat frisked Mr. Pimentel for officer safety and weapons. During the pat frisk, Sgt. Ledin could feel Mr. Pimentel's body shaking and vibrating. (R. Exhibit 9; Testimony of Ledin)

23. Sgt. Ledin then searched the front interior of Mr. Pimentel's motor vehicle. (R. Exhibit 9; Testimony of Ledin)

24. Sgt. Ledin picked up a shoebox from the passenger side floor of the motor vehicle. Inside, he found a clear plastic bag containing three large round objects wrapped in green plastic wrap; and a second clear plastic bag containing one small object and one medium object, also wrapped in green plastic wrap. (R. Exhibit 9; Testimony of Ledin)

25. From his State Police training and experience, Sgt. Ledin recognized that the packaging of the five green plastic wrapped objects was consistent with the packaging of illegal narcotics. (R. Exhibit 9; Testimony of Ledin)

26. Sgt. Ledin then walked over to the front of the motor vehicle where Mr. Pimentel and Sgt. Walls stood, advised Sgt. Walls of his findings and handcuffed Mr. Pimentel. Sgt. Ledin Mirandized Mr. Pimentel; Mr. Pimentel acknowledged that he understood his rights. (R. Exhibit 9; Testimony of Ledin)

27. Police reports reviewed by the Department and submitted to the Commission detail the further interactions between Mr. Pimentel and police officers, including the fact that (despite advising that he was a student and unemployed) the troopers found \$385 on Mr. Pimentel's person and uncovered an additional \$1,377 in his vehicle. Mr. Pimentel reportedly advised the troopers that the wrapped packages contained narcotics and cutting agents. (R. Exhibit 9; Testimony of Ledin)

28. The troopers had the motor vehicle towed and took Mr. Pimentel to the State Police Dartmouth barracks for booking. He was later transported to Ash Street jail pending arraignment on criminal charges and bail. (R. Exhibit 9; Testimony of Ledin)

29. Mr. Pimentel was held at the Bristol County House of Correction until his bail was reduced at a June 7, 2018 bail review hearing. The court also imposed a curfew from 7:00 p.m to 7:00 a.m., in addition to monitoring by GPS bracelet. (R. Exhibits 12-15)

30. On September 4, 2018 the Commonwealth *nolle prossed* the criminal charges that had been filed against Mr. Pimentel. (R. Exhibit 12)

Most Recent Hiring Cycle / Department Review / Decision to Bypass

31. On April 21, 2023, the state's Human Resources Division (HRD) issued Certification No. 09178 to the Department from which the Department appointed 45 firefighters. (Stipulated Fact)

32. As a result of the prior Commission decision, Mr. Pimentel's name was ranked at the top of Certification No. 09178. (Stipulated Fact)

33. Of the 45 candidates appointed, 44 of them were ranked below Mr. Pimentel. (Stipulated Fact)

34. On October 3, 2023, the Department notified Mr. Pimentel of the stated reasons for bypass. Specifically, as referenced in more detail below, the Department found statements made by Mr. Pimentel related to the 2018 Fall River incident in the first hiring cycle to be inconsistent with statements made in the third (current hiring cycle). Moreover, the Department did not find Mr. Pimentel credible regarding his assertion that he had previously (before the incident) loaned his car to a childhood friend and/or neighbor named "Will" whose last name Mr. Pimentel did not know. (R. Exhibit 1)

35. As part of a background investigation conducted during the *first* hiring cycle, Mr. Pimentel, as part of his written application, *self-disclosed*, without being asked, that he had been the subject of criminal charges in 2018 that were subsequently *nolle prossed*. (A. Exhibits 23 and 24)

36. Mr. Pimentel also provided the following written statement as part of the above-referenced application from the first hiring cycle:

On May 23, 2018 I allowed a friend of mine to borrow my vehicle to pick up his children from school in Boston, MA. My friend explained to me that his vehicle was under repair in a collision shop for a few days and we agreed that he could use my car during those days to pick-up [sic] his children. On May 24, 2018, after my friend used my vehicle, I drove to Fall River, MA to pick up my little cousins

to attend a family event in Providence, Rhode Island. I parked on the street as I waited for them to come outside. Shortly after, a Black Ford Fusion parked behind my car and two police officers approached my vehicle. I was questioned and ultimately arrested for the charges stated above.

On September 4, 2018, the Commonwealth of Massachusetts ultimately dismissed the charges brought against me due to no due process. I completely deny ownership and knowledge of the contraband found in my vehicle. I am no longer in contact with my former friend and I am very selective with those I surround myself with. I take great pride in being a U.S. Marine and totally against doing anything illegal – specifically, an act that could harm a civilian. I have paid great consequences for trusting a friend’s word and believing they were doing the right thing.

(R. Exhibit 20)

37. A background investigator later interviewed Mr. Pimentel, at which time they discussed the incident in Fall River. (A. Exhibit 15)

38. The background investigator asked Mr. Pimentel for the name of the person who had borrowed the motor vehicle, and Mr. Pimentel gave the name of William. When asked for William’s last name, Mr. Pimentel said, “I don’t know, he was just a guy from my neighborhood.” Mr. Pimentel elaborated that he had no contact with William and did not know how to get in touch with him. (A. Exhibit 15, R. Exhibit 19)

39. As part of that same hiring cycle, Mr. Pimentel sat for a February 27, 2020 Department interview with Dep. Commissioner Connie Wong, Acting Dep. Chief J. Greene, and District Chief M. Carey. (A. Exhibit 16; Testimony of Appellant)

40. During that interview, Mr. Pimentel said that he had loaned his motor vehicle to Will, a childhood friend. (A. Exhibit 16; Testimony of Dominguez, Testimony of Appellant)

41. Three years later, on August 15, 2023, as part of the current hiring cycle that is relevant to this appeal, Mr. Pimentel was interviewed by Ms. DeSouza. As part of that interview, Mr. Pimentel told Ms. DeSouza that he had loaned his motor vehicle to Will, his neighbor. (A. Exhibit 14; Testimony of DeSouza, Testimony of Dominguez, Testimony of Appellant)

42. Dep. Commissioner Wong asked Dominguez Investigations to investigate Mr. Pimentel's May 23, 2018 arrest further, including interviewing the arresting officers and the assistant district attorneys. Dominguez Investigations compiled its findings into a September 1, 2023 report. (R. Exhibit 7)

43. After reviewing the July 3, 2023 and September 1, 2023 Dominguez Investigations reports, in addition to all the background investigation information, the Department determined to bypass Mr. Pimentel. The Department determined that Mr. Pimentel's February 27, 2020 and August 15, 2023 interview statements about Will and his relation to the Appellant were inconsistent, and indicative of untruthfulness. (A. Exhibit 1)

44. In an October 3, 2023 bypass letter enclosing his appeal rights, Commissioner Paul F. Burke informed Mr. Pimentel that the Department had significant concerns about the inconsistent statements he made in two separate interviews, and with his truthfulness. (R. Exhibit 1)

45. In regard to the first bypass reason, inconsistent statements made during interviews, Commissioner Burke wrote in part that:

Due to the findings of the background investigation, you had a second meeting on *August 15, 2023* with the interview panel to discuss the charges. During your second meeting, you explained that it was a neighbor, named Will, that you let borrow your car for a week. You stated that Will was a neighbor with children and he was someone that you would see in the neighborhood. However, during your interview, with a different interview panel, on *February 27, 2020*, you stated "Will" was a childhood friend and you allowed him to borrow your vehicle two-three times a week to pickup his children as his car was being repaired Consistently in both iterations of your explanations of facts, you were unable to recall Will's last name.

(R. Exhibit 1)

46. Commissioner Burke continued:

It strains credulity that you would not remember or not know a neighbor's last name, much less be unable to recall a childhood friend's full name, yet allow that person to borrow your vehicle for that length of time. Your differing explanations of loaning your vehicle to a neighbor or a childhood friend is found to be not credible. It is inconsistent, and indicative of one who is being evasive as to the truth of the matter.

(R. Exhibit 1)

47. On December 1, 2023, Mr. Pimentel appealed to the Commission. (A. Exhibit 31)

Applicable Legal Standard

The core mission of Massachusetts civil service law is to enforce “basic merit principles” for “recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills” and “assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.” G.L. c. 31, § 1. See, e.g., *Massachusetts Ass’n of Minority Law Enforcement Officers v. Abban*, 434 Mass. 256, 259 (2001); *MacHenry v. Civil Serv. Comm’n*, 40 Mass. App. Ct. 632, 635 (1995), rev. den., 423 Mass. 1106 (1996). See also *Brookline v. Alston*, 487 Mass. 278 (2021) (analyzing broad scope of the Commission’s jurisdiction to enforce basic merit principles under civil service law). The role of the Civil Service Commission is to determine whether “on the basis of the evidence before it, the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by appointing authority.” *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 304 (1997). Accord *Watertown v. Arria*, 16 Mass. App. Ct. 331 (1983); *McIsaac v. Civil Serv. Comm’n*, 38 Mass. App. Ct. 411 (2000); *Police Dep’t of Boston v. Collins*, 48 Mass. App. Ct. 411 (2000); *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 728 (2003).

Original appointments of civil service employees are made from a list of candidates, called a “certification,” whose names are drawn in the order in which they appear on the civil

service “eligible list,” using what is called the 2n+1 formula. G.L. c. 31, §§ 6 – 11; 16 – 27; Personnel Administration Rules, PAR.09. An appointing authority must provide specific written reasons, consistent with basic merit principles, when choosing to bypass a higher ranked candidate in favor of a lower ranked one. G.L. c. 31, § 27; PAR.08(4).

In its review of bypass decisions, the Commission must determine whether the appointing authority has shown, by a preponderance of the evidence, that it had “reasonable justification” for the bypass, after conducting an “impartial and reasonably thorough review” of the relevant background and qualifications bearing on the candidate’s present fitness to perform the duties of the position. *Boston Police Dep’t v. Civil Serv. Comm’n*, 483 Mass. 461, 474-78 (2019); *Police Dep’t of Boston v. Kavaleski*, 463 Mass. 680, 688-89 (2012); *Beverly v. Civil Serv. Comm’n*, 78 Mass. App. Ct. 182, 187 (2010); *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-28 (2003). An action to bypass a candidate is justified when it is “done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law.” *Cambridge*, 43 Mass. App. Ct. at 304, quoting *Selectmen of Wakefield v. Judge of First Dist. Court of Eastern Middlesex*, 262 Mass. 477, 482 (1928); *Commissioners of Civil Serv. v. Municipal Court of the City of Boston*, 359 Mass. 211, 214 (1971). *Cambridge* further states, “[i]n the task of selecting employees of skill and integrity, appointing authorities are invested with broad discretion.” *Id.* at 304.

The Commission’s role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority's actions. *Falmouth v. Civil Serv. Comm’n*, 447 Mass. 814, 824-26 (2006). The issue for the Commission is “not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the Commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the Commission to have existed when the appointing authority

made its decision.” *Arria*, 16 Mass. App. Ct. at 334. *See Commissioners of Civil Serv. v. Municipal Ct. of Boston*, 369 Mass. 84, 86 (1975) and *Leominster v. Stratton*, 58 Mass. App. Ct. at 727-28. The Commission owes substantial deference to the appointing authority's exercise of judgment in determining whether there was “reasonable justification” shown. *Beverly v. Civil Serv. Comm’n*, 78 Mass. App. Ct. at 188.

Analysis

As a preliminary matter, the background investigation contained a flaw that needs to be corrected. Currently, the Department extends conditional offers of employment *before* completing the complete non-medical background investigation, then subjects the offeree to *further* non-medical background investigation (a CORI review) *and* medical examinations.

As referenced in prior Commission decisions, this practice is inconsistent with Massachusetts Commission Against Discrimination (MCAD) Guidelines and the Department shall modify its review process prospectively. *See Police Dep’t of Boston v. Kavaleski, supra; Kavaleski v. Reade*, No. 09-4978-C (Suff. Sup. Ct., Aug. 14, 2014) (consolidated cases) (citing MCAD Guidelines at V(B): “. . . prior to making a conditional job offer, the employer should have evaluated all relevant non-medical information.”)

However, that procedural flaw is not fatal to the Department’s case here as there is no evidence that the Department relied on any medical information as part of its decision to bypass Mr. Pimentel for appointment. Put another way, the flaw here did not result in the type of blurring of the lines between medical and non-medical disqualifications that the MCAD guidelines are meant to prevent.

Further, although Mr. Pimentel raises objections related to whether the Department followed proper procedures in accessing his CORI records, that is not determinative of this appeal. As referenced in the findings, without being asked, Mr. Pimentel *self*-disclosed his 2018

arrest as part of the application process. Almost all of the Department's subsequent review, prompted by Mr. Pimentel's self-disclosure, involved the review of police incident reports in addition to an interview with the arresting officer, all of which is clearly permissible as part of a background investigation.

In regard to the substance of this appeal, a preponderance of the evidence establishes that the Department had reasonable justification to bypass Mr. Pimentel based on his inconsistent statements and/or omissions.

Beyond the February 27, 2020 and the August 15, 2023 statements cited by the Department in the October 3, 2023 letter of bypass, Mr. Pimentel's statements are generally riddled with inconsistencies, and his explanations are disingenuous at best.

In Mr. Pimentel's December 15, 2019 letter to the Department, he refers to Will as "a friend of mine," who borrowed his car for school pickup. On January 25, 2020, Mr. Pimentel told an investigator that he did not know "Will's" last name, and that he was just "a guy from the neighborhood." In the February 27, 2020 panel interview, Mr. Pimentel said that he had loaned his car to "Will," "a childhood friend." In the August 15, 2023 interview with Director DeSouza, Mr. Pimentel said that he had loaned his motor vehicle to "Will," his neighbor.

I carefully reviewed the testimony of all witnesses, including Mr. Pimentel, along with any evidence that would support or detract from their testimony. After review, I find that Mr. Pimentel has made inconsistent and implausible statements that provide the Department with reasonable justification to bypass him for appointment.

First, although I found it unnecessary to make findings regarding every detail in the police reports, *nowhere* in those reports is it noted that Mr. Pimentel told arresting officers that *anyone*, whether it be a childhood friend or neighbor, had borrowed his car prior to the 2018 arrest in Fall River. Second, based on a review of the record, it appears that the first time Mr.

Pimentel raised the possibility that a friend or neighbor had borrowed his vehicle was during his interview with Department background investigators who were following up on his self-disclosure about the 2018 arrest on his application. Mr. Pimentel has vacillated between stating that the person he loaned the car to was a friend, a neighbor, a childhood friend or some combination of the above.

Mr. Pimentel's attempt before the Commission to reconcile all of his various, nuanced accounts was not persuasive. Even if I were to accept Mr. Pimentel's assertion that someone *did* borrow his car and that the varying descriptions of *who* borrowed his car all could be technically true, it is simply not believable – at all – that Mr. Pimentel would not know the last name of “Will”.

What occurred in 2018 was clearly a momentous event in Mr. Pimentel's life, resulting in an arrest, incarceration, criminal charges and, at least for a short period of time, great uncertainty regarding Mr. Pimentel's future. In Mr. Pimentel's telling, all of that tumult can be attributed to “Will”, a neighbor, casual friend or childhood friend who borrowed his car (which was towed and impounded by Fall River Police) shortly prior to the arrest. Accepting, for the sake of this decision, that someone named “Will” did actually borrow Mr. Pimentel's car, it is not plausible that Mr. Pimentel did not know or subsequently obtain “Will's” last name during this tumultuous time.

Although the Appellant's inconsistent statements alternately describing Will as a friend or neighbor might not, standing alone, constitute grounds to justify a bypass here, the preponderance of the evidence proves to me that Mr. Pimentel was less than truthful to the BFD about what he knew about this individual because he was afraid that it was not in his self-interest to be totally forthcoming to the BFD. Given the seriousness of the 2018 event, it is reasonable for the Department to expect Mr. Pimentel to have been entirely forthcoming when recounting

what occurred. He was not. For that reason, he is unsuitable to be a Boston firefighter, a position of responsibility which requires truthfulness and transparency. My conclusion here is consistent with the Commission's well-established standard to distinguish an intentional misrepresentation about a matter that is material to a candidate's suitability to hold a public safety position, which I conclude occurred here, from honest mistakes or immaterial errors of recollection that do not justify a bypass of an otherwise qualified candidate, which is not the case here.

CONCLUSION

Based on the preponderance of credible evidence presented at the hearing, I conclude that the Boston Fire Department had reasonable justification to bypass Balni Pimentel, Jr. for the position of permanent full-time firefighter.

The appeal filed under Docket No. G1-23-243 is hereby *denied*.

CIVIL SERVICE COMMISSION

/s/ *Angela C. McConney*
Angela C. McConney
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney, and Stein, Commissioners on August 21, 2025).

Either party may file a motion for reconsideration within ten days of receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 C.M.R. § 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 to:

Tony V. Blaize, Esq. (for Appellant)

Robert J. Boyle, Jr., Esq. (for Respondent)