

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK,ss.

CIVIL SERVICE COMMISSION

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

SHAWN QUAGLIETTA AND ELEVEN OTHERS,
Appellants

v.

Docket Nos.: (See Below)

CITY OF LAWRENCE,
Respondent

APPELLANTS

<u>CSC Case No.</u>	<u>Appellant</u>	<u>Current Seniority Date</u>	Began Performing Duties of <u>a full-time police officer on:</u>
E-10-122	Shawn Quaglietta	12/15/97	12/23/96
E-10-123	Daniel Fleming	12/15/97	12/23/96
E-10-124	James Raso	12/15/97	12/21/95
E-10-126	Michael Simard	12/15/97	12/23/96
E-10-141	Robert DiBenedetto	12/20/96	7/1/95
E-10-142	James Fitzpatrick	11/13/96	7/1/95
E-10-143	Dawn Pappalardo	11/12/96	7/1/95
E-10-144	Steve Scheffen	11/14/96	7/1/95
E-10-145	Jeffrey Hart	12/15/97	12/17/95
E-10-146	Timothy Dube	12/15/97	12/23/96
E-10-147	Thomas Murphy	12/15/97	12/17/95
E-10-148	Robert Moody III	12/15/97	12/17/95

INTERVENORS

▪ Scott McNamara	8/29/97	12/23/96
▪ Alan Laird	8/29/97	12/23/96
▪ John Heggarty	8/29/97	12/23/96
▪ Joseph Beaulieu	8/29/97	12/23/96
▪ Marco Ayala	1/5/97	12/23/96

Commissioner:

Christopher C. Bowman

DECISION ON APPELLANTS' REQUEST FOR RELIEF UNDER CHAPTER 310 OF
THE ACTS OF 1993

The twelve (12) Appellants in this case are Lawrence police personnel who are seeking retroactive civil service seniority dates as permanent full-time Lawrence police officers back to dates upon which they began performing all of the duties of a permanent full-time Lawrence police officer, but were designated as *reserve* officers.

The five (5) Intervenors are Lawrence police personnel who oppose some or all of the Appellants' requests for retroactive seniority dates which, in some cases, would place the Appellants' names above theirs on a civil service seniority list being used by the City regarding imminent layoffs and demotions in the police department. In the event that the Commission grants the Appellants' requests, the Intervenors ask that their civil service seniority dates also be adjusted back to the dates which they began performing all of the duties of a permanent full-time Lawrence police officers.

A hearing was held regarding this matter at the offices of the Civil Service Commission on June 29, 2010 which was attended by most of the Appellants and Intervenors and counsel for the City and the state's Human Resources Division (HRD).

The underlying issue regarding the City's use of reserve officers as de-facto permanent full-time police officers dates back approximately fifteen (15) years and has been the subject, either directly or indirectly, of various judicial and administrative decisions (including two Superior Court Decisions; an Appeals Court Decision; and at least one arbitration award).¹

¹ See Lawrence Patrolmen's Association v. City of Lawrence, No. 95-143C, Essex Superior Court (1996); City of Lawrence v. Civil Service Comm'n, No. 03-1402-D, Essex Superior Court (2005); City of Lawrence v. Civil Service Comm'n, 66 Mass. App. Ct. 309 (2006); Lawrence Patrolmen's Association v. City of Lawrence, Arbitration Award No. 1139-2511-95 (1996).

Common to both Superior Court Decisions and the arbitration award is the conclusion that the City abused the use of reserve officers from the time period December 1995 through December 1997 by designating individuals as reserve officers when they were actually de-facto permanent full-time police officers. In fact, the 1996 Superior Court decision deemed certain of the Appellants in the instant appeals (Pappalardo, Fitzpatrick, Scheffen and DiBenedetto) as aggrieved individuals and ordered their appointment as permanent full-time police officers with a retroactive civil service seniority date of July 1, 1995. Fourteen (14) years after that decision issued, the records still do not accurately reflect the correct civil service seniority date of July 1, 1995, thus prompting these four (4) Appellants to join the instant proceedings seeking relief. The other seven (7) Appellants effectively argue that they are similarly situated individuals and, if the intent of the Superior Court decision and arbitration award were equally applied to them, would result in a retroactive seniority date upon which they began performing all of the duties of full-time police officers.

The Intervenors do not dispute the accuracy of the dates upon which the Appellants (or they) began performing the duties of full-time police officers. Rather, they argue that the City's decision at the time regarding *which* individuals would become de-facto full-time officers, and on what date, was arbitrary and capricious.

After a careful review of the evidence and listening to the oral arguments of the Appellants and Intervenors and the comments from counsel for the City and HRD, I have concluded that the civil service seniority dates of the Appellants and Intervenors as permanent full-time police officers in Lawrence should be adjusted to the date upon which they began performing the duties of a full-time police officer.

I believe this conclusion is consistent with the Superior Court orders and arbitration award that are related to this matter and that is a fair and equitable remedy to all parties.

For these reasons, the Commission, pursuant to the powers of relief inherent in Chapter 534 of the Acts of 1976 as amended by Chapter 310 of the Acts of 1993, orders the Human Resources Division, or the City of Lawrence in its delegated capacity, to adjust the Appellants' civil service seniority dates as a permanent full-time Lawrence police officers to the date upon which they began performing the duties of full-time police officers as listed on page 1 of this decision.

Civil Service Commission

Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, McDowell and Stein, Commissioners) on July 1, 2010.

A True copy. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of this decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), 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:

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Appellants:

Shawn Quaglietta
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