

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**  
One Ashburton Place: Room 503  
Boston, MA 02108

JEFFREY K. REGER,  
DANIEL E. CRESPI,  
JOHN F. ADAMS &  
JEFFREY J. RUSSELL,  
Appellants

v.

D-18-178 (Reger)  
D-18-179 (Crespi)  
D-18-180 (Adams)  
D-18-181 (Russell)

DEPARTMENT OF STATE POLICE,  
Respondent

Appearance for Appellants Reger & Crespi:

Joseph Kittredge, Esq.  
Lorena Galvez, Esq.  
Rafanelli Kittredge, P.C.  
One Keefe Road  
Acton, MA 01720

Appearance for Appellants Adams & Russell:

Daniel J. Moynihan, P.C.  
271 Main Street, Suite 302  
Stoneham, MA 02180

Appearance for Respondent:

Daniel Brunelli, Esq.  
Department of State Police  
470 Worcester Road  
Framingham, MA 01702

Commissioner:

Christopher C. Bowman

**DECISION ON RESPONDENT'S  
MOTION FOR RECONSIDERATION & MOTION TO STAY**

On March 28, 2019, the Civil Service Commission (Commission) issued a decision allowing the Appellants' appeals, concluding that: (1) the Appellants had been deprived of their right to a hearing before they were suspended without pay, as intended by the provisions of G.L.c. 22C, § 13, G.L.c. 31, §§ 41 through 45, Department Rules 6.4 through 6.9, and, to the extent applicable,

the provisions of the collective bargaining agreement governing their employment with the Department; and (2) the Appellants could contest their suspensions to the Commission, which has jurisdiction to rectify procedural irregularities pursuant to G.L.c.31, §42, as well as require that the Department prove just cause for their suspension by a preponderance of the evidence, pursuant to G.L.c.31, § 43. The Commission's decision required that the Troopers be restored to their employment immediately without loss of compensation or other rights.

On April 8, 2019, the Respondent filed a Motion for Reconsideration of the Commission's March 28, 2019 decision or, in the alternative, a stay of the decision pending judicial review. The Respondent made three (3) arguments in favor of their motion: 1) The Commission lacks jurisdiction to hear the appeals; 2) the Appellants' appeals to the Commission were untimely; and 3) the Commission's decision contained statements that were unsupported by the record and inaccurate or incomplete.

On April 18<sup>th</sup> and 19<sup>th</sup>, 2019, the Appellants filed oppositions to the Respondent's motion, refuting the above-referenced arguments by the Respondent.

A Motion for Reconsideration must identify a clerical error or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. (801 CMR 1.01(7)(1))

Based on a careful review of the parties' submissions, the Respondent's Motion for Reconsideration and Motion to Stay is *denied*.

The Commission's March 28, 2019 decision provided detailed findings and analysis regarding why the Commission has jurisdiction to hear the instant appeals. The Respondent's motion does not identify a significant factor that the Commission may have overlooked that would warrant reconsideration by the Commission.

The argument regarding timeliness, which was never raised by the Respondent prior to filing a Motion for Reconsideration, is unpersuasive. The relevant statute provides as follows: "Any person who alleges that an appointing authority has failed to follow the requirements of section forty-one in taking action which has affected his employment or compensation may file a complaint with the commission. Such complaint must be filed within ten days, exclusive of Saturdays, Sundays, and legal holidays, after said action has been taken, or after such person first knew or had reason to know of said action ..." G.L. c. 31, § 42, as amended by St. 1979, c. 196. The Respondent contends that the "trigger date" for the statutory ten-day filing period was August 15, 2018 (the day of their duty status hearing), which would have required the Appellants to file an appeal with the Commission by August 29, 2018. The Appellants' appeals were received by the Commission on September 17<sup>th</sup>, 18<sup>th</sup> and 21<sup>st</sup>, 2018. Here, however, the ten-day period for filing a complaint with the Commission is linked to failures to comply with the statutory requirements by the Respondent. The Respondent effectively *acknowledges* that it followed *none* of the requirements of the civil service law (G.L. c. 31, §§ 41-45). The Respondent, *as of the date of this decision*: 1) has yet to provide the Appellants with *any* written notice of the discipline imposed, let alone a copy of the civil service law, as required; 2) refuses to acknowledge that any discipline has even occurred; and, 3) for at least three (3) of the

Appellants, has yet to conduct a full hearing. Put simply, the Respondent's failure to follow the requirements of section forty-one were *ongoing* when the Appellants filed their appeal with the Commission -- and their appeals cannot be considered untimely. (See City of Worcester v. Civ. Serv. Comm'n & Karen Walsh, 83 Mass.App.Ct. 1112 (Rule 1:28 Decision), rev.den., 464 Mass. 1100 (2013) (The Appeals Court rejected the City's argument on timeliness where the ten-day day complaint for filing a complaint with the Commission was linked to failures by the City to comply with the statute).

Further, Chapter 310 of the Acts of 1993, states: "If the rights of any person acquired under the provisions of chapter thirty-one of the General Laws or under any rule made thereunder have been prejudiced through no fault of their own, the civil service commission may take such action as will restore or protect such rights, notwithstanding the failure of any person to comply with any requirements of said chapter thirty-one or any such rule as a condition precedent to the restoration or protection of such rights." Here, the Appellants acquired certain rights of appeal under Chapter 31 and the Respondent has actively worked to circumvent those rights through no fault of the Appellants. Under these circumstances, the Commission is warranted in taking the action of hearing these appeals to restore and protect those rights.

Finally, I have carefully reviewed the Respondent's arguments that the Commission's decision contained statements that were unsupported by the record and inaccurate or incomplete. It did not.

For all of these reasons, the Respondent's Motion for Reconsideration and Motion to Stay is *denied*.

Civil Service Commission

/s/ Christopher Bowman  
Christopher C. Bowman  
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on May 9, 2019.

Notice:

Joseph Kittredge, Esq. (for Appellants Reger and Crespi)  
Lorena Galvez, Esq. (for Appellants Reger and Crespi)  
Daniel Moynihan, Esq. (for Appellants Adams & Russell)  
Daniel Brunelli, Esq. (for Respondent)