

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**

100 Cambridge Street – Suite 200

Boston, MA 02114

617-979-1900

**ERROL REID,**

*Appellant,*

v.

**BOSTON POLICE DEPARTMENT,**

*Respondent*

Docket Number:

G1-23-227

Appearance for Appellant:

Errol Reid, *Pro Se*<sup>1</sup>

Appearance for Respondent:

Jennifer Cipolletti, Esq.  
Boston Police Department  
One Schroeder Plaza  
Boston, MA 02120

Commissioner:

Angela C. McConney<sup>2</sup>

**SUMMARY OF DECISION**

The Civil Service Commission upheld the Boston Police Department's decision to bypass the Appellant based upon the poor judgment he displayed in a 2020 incident that resulted in criminal charges.

**DECISION**

On October 20, 2023, Errol Reid (Mr. Reid or Appellant), acting pursuant to G.L. c. 31, § 2(b), timely appealed to the Civil Service Commission (Commission) from the September 13,

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<sup>1</sup> The Appellant was assisted by his sister, Shericha Simpson.

<sup>2</sup> The Commission acknowledges the assistance of Law Clerk Camryn Given with the preparation of this decision.

2023 decision of the Boston Police Department (Department or Respondent), the Appointing Authority, to bypass him for appointment to the position of permanent police officer. As reasons therefore, the BPD cited Mr. Reid's behavior during a 2020 law enforcement encounter which resulted in an arrest.

The Commission conducted a remote pre-hearing conference on December 12, 2023. On March 6, 2024, I held a full evidentiary hearing at the offices of the Commission, located at 100 Cambridge Street, Boston, MA.<sup>3</sup> The hearing was audio/video via Webex and copies were provided to the parties.<sup>4</sup> The Respondent submitted a post hearing brief on May 1, 2024, whereupon the administrative record closed.

#### **FINDINGS OF FACT:**

I admitted four exhibits from the Respondent into evidence (Exhibits 1-4). I left the record open for 30 days in order for Mr. Reid to submit documents, but none was forthcoming.

Based upon the documents submitted and the testimony of the following witnesses:

##### *Called by the Department:*

- Detective Joel Resil, Recruit Investigations Unit, Boston Police Department
- Teori Shaw-Boyce, Deputy Director of Human Resources, Boston Police Department

##### *Called by the Appellant:*

- Errol Reid, the Appellant

and taking administrative notice of all matters filed in the case and pertinent statutes,

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<sup>3</sup> 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.

<sup>4</sup> Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal is obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by substantial evidence, arbitrary or capricious, or an abuse of discretion. In such cases, the plaintiff in the judicial appeal must transcribe the transcript from the Commission's official recording.

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

*Appellant's Background*

1. Mr. Errol Reid is a 34-year-old male, currently residing in Dorchester. (Exhibit 1; Testimony of Appellant)

2. Mr. Reid's childhood was split between his father in Jamaica and his mother in North Carolina. At the age of 12, Mr. Reid became a U.S. citizen. (Testimony of Appellant)

3. In 2008, Mr. Reid moved to North Carolina permanently. (Exhibit 1; Testimony of Appellant)

4. Mr. Reid attended college from 2011 to 2015 on a soccer scholarship but did not graduate. (Exhibit 1; Testimony of Appellant)

5. Mr. Reid moved to Boston in 2015. (Exhibit 1)

6. Mr. Reid is currently employed as an MBTA bus operator. He has also worked as a soccer coach since 2015. (Exhibit 1; Testimony of Appellant)

7. On March 16, 2022, Mr. Reid took and passed the civil service examination for police officer. (Stipulated Facts)

8. On May 24, 2022, the state Human Resources Department (HRD) established the eligible list for Boston Police Officer and issued Certification No. 088848. (Stipulated Facts)

9. Mr. Reid ranked 87<sup>th</sup> among the 140 candidates selected for appointment. (Stipulated Facts)

*Background Investigation*

10. Detective Joel Resil has been employed by the Department for 22 years and has served as a detective for the last 3 ½ years. He is assigned to the Recruit Investigations Unit

(RIU) where he conducts background investigations of those seeking employment with the Department. As part of his RIU duties, Detective Resil conducted Mr. Reid's background investigation. (Exhibit 1; Testimony of Resil, Testimony of Shaw-Boyce)

11. Det. Resil reviewed Mr. Reid's employment history, criminal record, driving history, residency record, personal references, and whether he had an LTC. (Testimony of Resil)

12. During the background investigation, Det. Resil learned that Mr. Reid had been involved in a domestic violence incident. (Exhibits 1 and 2; Testimony of Resil)

13. In the early hours of September 19, 2020, Mr. Reid was spending intimate time at his home with a woman when they got into a dispute. At approximately 3:00 a.m., the woman called 911. When Department police officers arrived, the woman said that Mr. Reid had pushed her to the ground and punched her in the face. (Exhibits 1 and 3; Testimony of Resil)

14. Det. Resil obtained the incident report generated as a result of that morning's events, Boston Police Incident Report #202068536. According to the incident report, Mr. Reid told the responding police officers that he removed the woman from his room after she hit him with her purse and called him "foul names." Mr. Reid admitted to the officers that "once she was out of the bedroom, he held the woman against the wall located outside his bedroom but did not push her to the ground." (Exhibits 1 and 3; Testimony of Appellant, Testimony of Resil)

15. According to the police incident report, when the police officers asked for his name, Mr. Reid "refused to provide his true identity more than four times and provided false names." After the police officers advised Mr. Reid that he would be placed under arrest, he requested the officers' permission to change from his robe to street clothes. Mr. Reid was not wearing anything under his robe, and exposed his genital area to the police officers as he got dressed behind a door. (Exhibits 1 and 3; Testimony of Resil, Testimony of Appellant)

16. According to the police incident report, Mr. Reid produced a video to show the officers that he had not assaulted the female caller. As he was fast forwarding the video to the time of the alleged altercation, it progressed to scenes of Mr. Reid and the woman engaged in sexual activity earlier that evening in his room. The officers informed Mr. Reid that they did not want to watch the video because of its sexual content. (Exhibit 3; Testimony of Resil, Testimony of Appellant)

17. The police officers arrested Mr. Reid for the offenses of (1) assault and battery (G.L. c. 265, § 13A); (2) giving false information to officers (G.L. c. 94, § 138); and (3) indecent exposure (c. 272, § 53). (Exhibits 2 and 3; Testimony of Resil)

18. Mr. Reid testified that “women get privilege once they call the cops.” (Exhibit 1; Testimony of Appellant)

19. Mr. Reid was arraigned on the charges of (1) assault and battery (G.L. c. 265, § 13A) and (2) giving false information to officers (G.L. c. 94, § 138) on September 21, 2020, in the Dorchester Division of the Boston Municipal Court. All the charges were dismissed on September 14, 2021. (Exhibits 1 and 4; Testimony of Shaw-Boyce)

20. The Department’s licensing unit suspended Mr. Reid’s license to carry (LTC) as a result of the September 19, 2020 events. (Exhibit 1; Testimony of Resil, Testimony of Shaw-Boyce)

21. On January 4, 2023, Detective Resil interviewed the woman involved in the incident. She did not recall Mr. Reid punching her in the face, but she did remember that he physically removed her from his home. (Exhibit 1)

22. On January 11, 2023, Detective Resil interviewed Mr. Reid at his home. Mr. Reid stated that:

[Mr. Reid] and [the woman] were ‘hanging out’ and he got called into work and advised her that he would not be able to drive her home but that he would call her an Uber. He further stated that he retrieved some ice cream from the kitchen and she became upset when he told her she could not have any because he wanted her to ‘watch her figure.’ The applicant stated that she began hitting him with her purse and she called the police. The applicant states he escorted her out of his room and blocked her from reentering her bedroom.

(Exhibit 1; Testimony of Resil)

23. During the home interview, Mr. Reid asserted that he had given the officers his real name, but the officers did not believe that he was truthful. (Exhibit 1)

24. Detective Resil compiled the findings of his background investigation into a Personal and Confidential Memorandum (PCM). On or around January 17, 2023, he presented the PCM to the Department roundtable, which included the Deputy Director of Human Resources, the Deputy of Internal Affairs, a Sargent Detective of Recruit Investigations, and one or two of the Department attorneys. (Exhibit 1; Testimony of Resil, Testimony of Shaw-Boyce)

25. After making his presentation, Detective Resil left the room, and the roundtable deliberated on Mr. Reid’s candidacy. The roundtable’s members were concerned that the police were dispatched for (1) a physical altercation involving Mr. Reid, that (2) Mr. Reid provided false information to officers, that (3) he revealed his genitals to the officers, and (4) showed them a sexually explicit video. (Testimony of Shaw-Boyce)

26. The roundtable concluded that Mr. Reid was not a suitable candidate for police officer based on his poor judgment during the September 19, 2020 incident, and decided to bypass him. (Exhibit 4; Testimony of Shaw-Boyce)

27. The Department issued Mr. Reid a September 13, 2023 notice of bypass, enclosing his appeal rights. As bypass reasons, the letter cited Mr. Reid’s conduct on September 19, 2020 that included becoming physical with a woman, failing to provide his identity to

authorities, exposing his genitals to officers, and then showing the police officers an inappropriate video. As a result, the Department considered Mr. Reid’s “aggressive behavior” and “inability to conduct [himself] in a manner consistent with the laws.” (Exhibit 4; Testimony of Shaw-Boyce)

28. On October 10, 2023, Mr. Reid filed a timely appeal with the Commission.  
(Stipulated Facts)

### **APPLICABLE CIVIL SERVICE LAW**

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).

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 applicable civil service “eligible list”, using what is called the 2n+1 formula. G. L. c. 31, §§ 6 through 11, 16 through 27; Personnel Administration Rules, PAR.09.

The Commission’s role is to determine whether the appointing authority has shown, by a preponderance of the evidence, that it has “reasonable justification” for the bypass after 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).

"Reasonable justification . . . means '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'". *Brckett v. Civil Service Comm'n*, 447 Mass. 233, 543 (2006); *Commissioners of Civil Service v. Municipal Ct.*, 359 Mass. 211, 214 (1971) and cases cited. See also *Mayor of Revere v. Civil Service Comm'n*, 31 Mass. App. Ct. 315, 321 (1991) (bypass reasons "more probably than not sound and sufficient").

Public safety officers are vested with considerable power and discretion and must be held to a high standard of conduct. See, e.g., *Falmouth v. Civil Serv. Comm'n.*, 61 Mass. App. Ct. 796, 801 (2004), citing *Cambridge v. Civil Serv. Comm'n*, 43 Mass. App. Ct. 300, 303-305, rev. den., 10 428 Mass. 1102 (1997); *Police Comm'r v. Civil Serv. Comm'n*, 22 Mass. App. Ct. 364, 371, rev. den. 398 Mass. 1103 (1986).

## ANALYSIS

By a preponderance of the evidence, I find that the Department had reasonable justification to bypass Mr. Reid for original appointment as a police officer based on concerns regarding his judgment.

I find that Det. Resil conducted a reasonable and thorough background investigation, and supplied a PCM that enabled the roundtable to make an informed decision on Mr. Reid's candidacy. Further, Mr. Reid was given the opportunity to share more information in his application and in the home interview with Det. Resil.

The roundtable emphasized the September 19, 2020 events and Mr. Reid's poor judgment. The roundtable emphasized four discrete issues leading to their bypass decision: (1) the allegations of violence against Mr. Reid, (2) Mr. Reid's failure to provide his identity to officers, (3) Mr. Reid's inappropriate exposure to officers, and (4) the video of sexual activity that Mr. Reid presented to officers. I now weigh each of the Department's reasons for bypass.

Mr. Reid disputes the woman's claim that, on September 10, 2020, he pushed her down and punched her. When Det. Resil interviewed the woman as part of his background investigation in 2023, she did not recall the punching but recalled that Mr. Reid physically removed her from his room. Whether or not Mr. Reid punched her, he admitted to the police officers at the scene that he physically restrained her and that he pushed her against a wall before physically removed her from his bedroom. It is undisputed that he put his hands on her in a violent manner. This instance of violent behavior strongly supports the finding that Mr. Reid lacks the good judgment expected of a police officer, and gives the Department reasonable justification for his bypass from the position of police officer.

After police officers responded to the 911 call, Mr. Reid failed to cooperate with officers. He did not provide his true identity to the authorities as requested on at least four occasions. Mr. Reid told Det. Resil in the December 2023 home interview that although the police officers did not believe him, he did provide his real name. Mr. Reid is not credible in this regard; he was not forthcoming with his identity when questioned by the police officers. As a police officer, Mr. Reid would be responsible for enforcing the laws and engaging with citizens who may be in violation of them. Mr. Reid's failure to cooperate with the police officers gives the Department reasonable justification for his bypass from the position of police officer.

Mr. Reid demonstrated questionable conduct when he exposed his private parts to officers at his home on September 19, 2020. Mr. Reid disputes that he deliberately exposed himself, and that he had the officers' permission to change from his robe into street attire. The officers may not have understood the extent of Mr. Reid's deshable under the robe, but it is undisputed that officers were present when he was getting dressed and that they saw his genital area. Based on the information provided to the roundtable, the exposure of Mr. Reid's genital area gives the Department reasonable justification for his bypass from the position of police officer.

Finally, it is undisputed that the Mr. Reid showed the police officers a video of himself and the woman nude and engaging in sexual activity. The officers expected to see evidence that Mr. Reid had not assaulted the woman, not sexual activity. This is not behavior becoming of a police officer. Police officers are often called to homes to resolve issues of domestic and sexual violence. Once again, Mr. Reid's behavior gives the Department reasonable justification for his bypass from the position of police officer.

As a result of the September 19, 2020 incident, the Department's licensing unit suspended Mr. Reid's LTC. Carrying a firearm is an essential job duty for the position of police officer. Mr. Reid is prohibited from carrying a firearm as a result of the LTC suspension. The LTC suspension gives the Department reasonable justification for his bypass from the position of police officer.

The Commission has well-established precedent that charges that did not result in convictions may still be considered by appointing authorities. "The Commission has long held that an applicant's arrest record, even in the absence of a conviction, is entitled to some weight by the appointing authority in making its decision." *Labriola v. Stoneham*, 25 MCSR 36, 38 (2012). See *Thames v. Boston Police Dep't.*, 17 MCSR 125, 127 (2004); *Soares v. Brockton*

*Police Dep't.*, 14 MCSR 168 (2001); *Brooks v. Boston Police Dep't.*, 12 MCSR 19 (1999); *Frangie v. Boston Police Dep't.*, 7 MCSR 252 (1994). Therefore, it was proper for the Department to assess the charges although there were no resulting convictions.

The charges brought against Mr. Reid were recent enough that the roundtable accorded them considerable weight. Mr. Reid took the civil service examination in early 2022. The domestic violence incident occurred less than two years earlier in 2020, and it was reasonable for the Department to find that Mr. Reid's 2020 conduct accurately reflected Mr. Reid's current level of judgment.

Public safety officers are held to a high standard given the amount of discretion and power they hold in their position. Police officers are expected to both abide by and enforce the laws. Mr. Reid's actions on September 19, 2020, created a reasonable justification for the appointing authority to find that Mr. Reid did not meet the high standard that police officers are held to. It is reasonable for the Department to have concerns over Mr. Reid's behavior in more stressful situations that would inevitably arise as a police officer. Therefore, the roundtable's decision to bypass Mr. Reid based on his lack of sound judgment in this situation is reasonably justified.

I find that the Boston Police Department was reasonably justified in bypassing Errol Reid for all of the reasons contained in the bypass letter.

## **CONCLUSION**

For all of the above reasons, the Boston Police Department's decision to bypass Errol Reid for the position of police officer is affirmed. The appeal filed under Docket No. G1-23-227 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 and McConney, Commissioners [Stein – Absent]) on August 22, 2024.

Either party may file a motion for reconsideration within ten days of the 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:

Errol Reid (Appellant)

Jennifer Cipolletti, Esq. (for Respondent)