

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200

Boston, MA 02114

(617) 979-1900

MARKUS REYNOLDS,

*Appellant*

v.

G1-24-035

CITY OF BROCKTON,

*Respondent*

Appearance for Appellant:

*Pro Se*

Markus Reynolds

Appearance for Respondent:

Karen A. Fisher, Esq.

City of Brockton

45 School Street – City Hall

Brockton, MA 02301

Commissioner:

Christopher C. Bowman

SUMMARY OF DECISION

The Commission dismissed the Appellant's bypass appeal for the position of police officer as the Commission recently upheld a prior bypass by the City of Brockton based on the same reasons.

DECISION ON RESPONDENT'S MOTION FOR SUMMARY DECISION

***Procedural History***

On March 11, 2024, the Appellant, Markus Reynolds (Appellant), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the City of Brockton (City) to bypass him for original appointment as a police officer in the City's Police Department (BPD).

On April 9, 2024, I held a remote pre-hearing conference which was attended by the Appellant, counsel for the City, and a representative of the BPD. The City subsequently filed a Motion for

Summary Decision and the Appellant did not file a reply or opposition.

***Undisputed Facts***

Based on the statements made by the parties at the pre-hearing conferences and all other submissions of the parties and the state's Human Resources Division (HRD), the following facts are undisputed:

**Bypass Appeal I**

1. On March 17, 2022, the Appellant took the civil service examination for police officer.
2. On July 1, 2022, HRD established the eligible list for police officer.
3. On December 15, 2022, HRD issued Certification No. 09004 to the City upon which the Appellant's name was tied for 24<sup>th</sup>.
4. On July 11, 2023, the City bypassed the Appellant for appointment. (Bypass I)
5. On August 31, 2023, the Appellant appealed Bypass I to the Commission.
6. On April 4, 2024, the Commission [issued a decision](#) affirming the City's decision to bypass the Appellant.

**Bypass Appeal II**

7. On August 29, 2023, HRD, as part of a subsequent hiring cycle by the City, issued Certification No. 09467 to the City upon which the Appellant's name was tied for 50<sup>th</sup>.
8. The certification was established from the same eligible list from which the Appellant was previously bypassed.
9. On January 11, 2024, while the appeal regarding Bypass Appeal I was still pending with the Commission, the City bypassed the Appellant a second time for the same reasons. (Bypass II)
10. On March 11, 2024, the Appellant filed an appeal with the Commission contesting Bypass II.
11. On April 9, 2024, five days after the Commission issued a decision affirming the City's

reasons associated with Bypass I, a pre-hearing was held before the Commission on Bypass II.

***Motion for Summary Decision Standard***

A party before the Commission may file a motion for summary decision pursuant to 801 CMR 1.01(7)(h), which states:

When a party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he or she is entitled to prevail as a matter of law, the party may move, with or without supporting affidavits, for summary decision on the claim or defense.

These motions are decided under the well-recognized standard for summary disposition as a matter of law, *i.e.*, “viewing the evidence in the light most favorable to the non-moving party,” the substantial and credible evidence established that the non-moving party has “no reasonable expectation” of prevailing on at least one “essential element of the case,” and has not rebutted this evidence by “plausibly suggesting” the existence of “specific facts” to raise “above the speculative level” the existence of a material factual dispute requiring an evidentiary hearing. *See, e.g., Lydon v. Massachusetts Parole Board*, 18 MCSR 216 (2005); *Milliken & Co. v. Duro Textiles LLC*, 451 Mass. 547, 550 n.6 (2008); *Maimonides School v. Coles*, 71 Mass. App. Ct. 240, 249 (2008); *see also Iannacchino v. Ford Motor Company*, 451 Mass. 623, 635-36 (2008) (discussing standard for deciding motions to dismiss); *cf. R.J.A. v. K.A.V.*, 406 Mass. 698 (1990) (denying motion to dismiss due to factual issues bearing on plaintiff’s standing).

*Analysis*

Here, the parties agree that the bypass reasons for this most recent hiring cycle are essentially the same as those contained in the prior bypass referenced above. Given that the Commission has already affirmed the Appellant’s bypass for the same reasons in a prior hiring cycle and given that the current certification was drawn from the same eligible list, there are no factual disputes

which would warrant a new evidentiary hearing. Put another way, there is no additional information that could be presented that would change the Commission's decision regarding the validity of the bypass reasons, reached by the Commission only weeks ago. See [Lima v. City of New Bedford](#), 33 MCSR 285 (2020) (Commission dismissed that appellant's second bypass appeal as it had upheld same reasons in prior bypass decided by Commission months earlier.)

***Conclusion***

The City's Motion for Summary Decision is allowed and the Appellant's bypass appeal under Docket No. G1-24-035 is hereby ***dismissed***.

Civil Service Commission

/s/ Christopher Bowman  
Christopher C. Bowman  
Chair

By a vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney and Stein, Commissioners [Markey – Absent]) on May 16, 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 CMR 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:  
Markus Reynolds (Appellant)  
Karen Fisher, Esq. (for Respondent)