

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114
(617) 979-1900

LUCAS RIBEIRO,
Appellant

v.

BOSTON POLICE DEPARTMENT,
Respondent

Docket Number:

G1-24-135

Appearance for Appellant:

Pro Se

Appearance for Respondent:

James Megee, Esq.
Jennifer Cipolletti, Esq.
Boston Police Department
Office of the Legal Advisor
One Schroeder Plaza
Boston, MA 02120

Commissioner:

Shawn C. Dooley

SUMMARY OF DECISION

The Commission affirmed the decision of the Boston Police Department to bypass a candidate for appointment as a police officer due to his employment history, interactions with police, lack of candor, and associations with criminals.

DECISION

On July 31, 2024, the Appellant, Lucas Ribeiro (Appellant), pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Boston Police Department (BPD) to bypass him for original appointment to the position of

permanent, full-time police officer.¹ On September 17, 2024, a remote pre-hearing conference was held. On December 3, 2024, I conducted an in-person full hearing at the offices of the Commission in Boston. The hearing was recorded via Webex.² Both parties filed proposed decisions. For the reasons set forth below, the Appellant's appeal is denied.

FINDINGS OF FACT

The Appellant did not submit any exhibits and the Respondent entered 27 exhibits (Resp. Exhs. 1-27) into evidence. Based upon the documents entered into evidence and the testimony of the following witnesses:

Called by the BPD:

- Detective Craig Wozniak (Wozniak), Recruit Investigation Unit (RIU), Boston Police Department
- Director of Human Resources Natasha Levarity (Ms. Levarity), Boston Police Department
- Detective Alison Gunther (Detective Gunther), Boston Police Department³

Called by the Appellant:

- Lucas Ribeiro, Appellant

and taking administrative notice of all matters filed in the case and pertinent statutes, regulations, case law and policies, and reasonable inferences therefrom, a preponderance of the evidence establishes the following findings of fact:

1. The Appellant is a life-long Boston resident and a graduate of a Boston high school.

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.01, *et seq.*, apply to adjudications before the Commission with G.L. c. 31, or any Commission rules, taking precedence.

² A link to the audio/video recording was provided 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 Detective Gunther was a member of BPD's Youth Violence Strike Force (YVSF) at the time of the investigation of the Appellant and participated in the RICO investigation referenced in this decision.

He is currently employed as a security officer at an area hospital. (*Testimony of the Appellant*)

2. The Appellant served as a Somerville Auxiliary Police Officer from 2015 through 2018, at which time the Auxiliary Police program was disbanded. (*Testimony of the Appellant*)
3. The Appellant was sponsored by the Somerville Police Department into the Reserve Police Academy. He completed the Academy in 2017. (*Testimony of the Appellant*)
4. On March 22, 2022, the Appellant took the written examination for police officer administered by the state's Human Resources Division (HRD). (*Stipulated Fact*)
5. On July 1, 2022, the Appellant was added to the eligible list for Boston Police Officer. (*Stipulated Fact*)
6. On August 9, 2023, HRD issued Certification Number 09448 to the BPD to fill 163 vacancies. The Appellant was ranked 86th among those willing to accept an appointment. (*Stipulated Facts*)
7. At the start of the recruit investigation process, the BPD provides each applicant with an application to be completed truthfully and accurately. After receiving the completed application, the BPD assigns a detective to each candidate to review the application and conducts a thorough background investigation. (*Testimony of Detective Wozniak; Resp. Ex 6*)
8. Detective Wozniak was assigned to conduct the Appellant's recruit background investigation in this hiring cycle as well as for all of his applications to the BPD since 2020.⁴ (*Testimony of Detective Wozniak*)
9. During the background investigation, Detective Wozniak reviewed all aspects of the

⁴ This is the third time the Appellant has filed an appeal before the Commission challenging the same justification for his non-selection. In the first instance, the appellant withdrew his appeal after the BPD agreed to amend his bypass letter. On the second occasion, the Appellant withdrew his appeal prior to hearing.

Appellant's background, including his criminal history, driving record, previous employment, references, and application. (*Testimony of Detective Wozniak; Res. Ex.26*)

10. Upon completion of the background investigation, the investigator completed a "Privileged and Confidential Memorandum" (PCM) encapsulating the investigation.⁵ (*Testimony of Ms. Levarity*)

11. The investigator presents each candidate's PCM to a "roundtable" panel. The roundtable discusses each candidate's suitability and determines whether the candidate should move forward in the process. This roundtable is comprised of a senior member of BPD Internal Affairs and BPD's director of Human Resources. (*Testimony of Ms. Levarity*)

12. In some instances, the roundtable requests that the investigator obtain additional information before making a final determination. (*Testimony of Ms. Levarity*)

Appellant's previous work history

13. The Appellant has been employed as a security guard at a local hospital since May 2022. During his employment, the Appellant received multiple disciplinary warnings regarding absenteeism and the use of inappropriate language; eventually, he was given a final warning letter on September 27, 2023. (*Testimony of Detective Wozniak, Res Ex. 26*)

14. Detective Wozniak interviewed the Appellant's supervisor and was told that he is a "good officer" and has made significant improvement since being issued his "final warning" letter. (*Res. Ex. 26*)

15. The Appellant indicated that he had never been terminated on his 2024 BPD

⁵ A PCM was authored by Detective Tishia Murphy in 2019 as part of the Appellant's first application to BPD. Det. Wozniak incorporated some of the findings and facts from that report into the current PCM.

application. During the investigation it was determined that the Appellant has been terminated from two different security firms in 2017 and 2020. (*Testimony of Detective Wozniak and Res. Ex 26*)

16. Two other firms reported that he was terminated after not showing up for work and not calling in. These instances could also be interpreted as the Appellant quit without notice. (*Res. Ex. 26*)

17. Another security firm that the Appellant resigned from stated that, due to his absenteeism and violation of the uniform policy, he would not be eligible for rehire. (*Res. Ex.26*)

Police Reports

18. During the course of the Appellant's recruit investigation, it was determined that he was the subject of multiple BPD police reports. One report which resulted in some action against the Appellant is as follows:

- Report #202006552: documents a January 25, 2020, incident in which the Appellant was exiting a barroom in the City of Boston. Officers McDonough and Beauchemin followed the Appellant and eventually engaged him in conversation. The officers observed the Appellant to be visibly intoxicated at the time. The Appellant subsequently admitted he was in possession of a firearm. The officers then removed the firearm which was unsecured and loaded in the Appellant's waistband. The Appellant was issued a summons to appear in the Dorchester Division of the Boston Municipal Court for the charge of Carrying a Firearm while Intoxicated. His license to carry and FID card were also suspended. Following a clerk magistrate's hearing, no charges were issued. The Appellant's License to Carry and Firearms Identification Card expired during the period of time it was suspended.

(*Testimony of Detective Wozniak, Res. Ex 13*)

Application to Brockton PD

19. In the Spring of 2024, the Appellant was interviewed by representatives of the Brockton Police Department as part of his application to become a Brockton Police Officer. (*Testimony of Detective Wozniak, Res. Ex. 26*)
20. During the interview, Brockton detectives viewed the contents of the Appellant's cellphone and discovered recent photographs of known gang members whom the Appellant was able to identify (by both street name and government-issued-identification name). Additionally, Brockton investigators viewed several photographs of firearms on the Appellant's phone. When asked about the firearms, the Appellant responded by saying they were from a recent trip to Florida. When pressed about the details of that trip, the Appellant informed Brockton investigators that he would like to withdraw his application. (*Testimony of Detective Wozniak and Res. Ex. 26*)

Alleged Gang Involvement

21. In 2019, the Boston Police Department's Youth Violence Strike Force, along with Federal partner agencies, began a widescale racketeering investigation into street gangs that operated primarily in the Roxbury and Dorchester sections of Boston. (*Testimony of Detective Gunther, Res. Ex. 5*)
22. As part of the investigation, several cellular telephones were seized from the investigative targets. Additionally, certain recorded jailhouse phone calls were reviewed. (*Testimony of Detective Gunther, Res. Ex. 5*)
23. The targets of this investigation have all either pleaded to, or been found guilty of, federal racketeering or related charges in the United States District Court for the District of Massachusetts. Each of these individuals were found to be active members of street gangs. (*Testimony of Detective Gunther*)

24. Search warrants were executed on several of the cellular devices and several group text message threads were discovered that included the Appellant. (*Appellant testimony; Testimony of Detective Gunther; Res. Ex. 5*).
25. In the above-mentioned group text messages, the Appellant engages in several conversations, including sending messages regarding where rival gang members could be located, messages encouraging others to carry and/or conceal firearms, messages discussing robberies, and messages discussing drug dealing. (*Testimony of Detective Gunther, Res. Ex. 5*)
26. In addition, there were messages between the Appellant and gang members expressing concern that law enforcement might gain access to the group text message thread after an associate was arrested and his phone was seized. (*Testimony of Det. Gunther, Res. Ex. 5*)
27. The Appellant admitted at the hearing that he was the one who sent these messages.
(*Testimony of the Appellant*)
28. During his discretionary interview with Detective Wozniak and Detective Gunther, the Appellant did not admit to sending these messages. (*Testimony of Detective Gunther, Res. Ex. 5*)
29. During the recorded interview, the Appellant claimed to be unsure whether he had control over the subject phone number during the relevant time period and he gave evasive answers when confronted with these communications. (*Testimony of Detective Gunther, Testimony of Appellant, Res. Ex. 24*).

LEGAL STANDARD

The role of the Civil Service Commission in original appointment bypass appeals is to determine whether “the Appointing Authority has sustained its burden of proving that there was reasonable justification for the action taken by the Appointing Authority.” *City of Cambridge v. Civil Service Commission*, 43 Mass. App. Ct. 300, 304 (1997). *See also Town of Watertown v. Arria*, 16 Mass. App. Ct. 331 (1983); *McIsaac v. Civil Service Commission*, 38 Mass. App. Ct. 411 (2000); *Police Department of Boston v. Collins*, 48 Mass. App. Ct. 411 (2000); *City of Leominster v. Stratton*, 58 Mass. App. Ct. 726, 728 (2003). Numerous decisions establish that the Commission’s authority does not extend to substituting its judgment for that of an appointing authority. *City of Cambridge*, 43 Mass. App. Ct. at 304; *School Committee of Salem v. Civil Service Commission*, 348 Mass. 696, 699 (1965). Massachusetts General Laws chapter 31 § 2(b) provides that “no decision” of a municipal appointing authority “shall be reversed by the commission except upon a finding that such decision was not based upon a preponderance of evidence in the record.”

Focusing on “reasonable justification” for the appointing authority’s bypass decision, an action 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.” *City of 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 Service v. Municipal Court of the City of Boston*, 359 Mass. 211, 214 (1971).

In making that analysis, the commission must focus on the fundamental purposes of the civil service system – to guard against political considerations, favoritism, and bias in governmental employment decisions. When there are, in connection with personnel decisions, overtones of political control or objectives unrelated to merit standards or neutrally applied public policy, then the occasion is appropriate for intervention by the commission. It is not within the authority of the commission, however, to substitute its judgment about a valid exercise of

discretion based on merit or policy considerations by an appointing authority. In the task of selecting public employees of skill and integrity, appointing authorities are invested with broad discretion.

City of Cambridge, 43 Mass. App. Ct. at 304 (citations omitted).

Appointing Authorities are rightfully granted wide discretion when choosing individuals from a certified list of eligible candidates on a civil service list. *City of Cambridge*, 43 Mass. App. Ct. 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 Service Commission*, 447 Mass. 814, 824-826 (2006). In doing so, the Commission owes substantial deference to the appointing authority's exercise of judgment in determining whether there was "reasonable justification" shown. *City of Beverly v. Civil Service Commission*, 78 Mass. App. Ct. 182, 188 (2010). Such deference is especially appropriate with respect to the hiring of police officers. *Id.* 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." *Town of Watertown v. Arria*, 16 Mass. App. Ct. 331, 334 (1983). See *Commissioners of Civil Service v. Municipal Ct. of Boston*, 369 Mass. 84, 86 (1975) and *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-728 (2003).

ANALYSIS

The BPD has shown, by a preponderance of the evidence, that the department had reasonable justification to bypass the Appellant for appointment as a police officer based on poor work history, one troubling interaction with police, lack of candor, and multiple instances of gang association/involvement.

The Appellant's work history has been lackluster at best, with numerous issues cropping up

throughout the Appellant's adult life. He has had multiple documented issues with absenteeism, professionalism, and has been terminated from several jobs. His most recent incident of work-related discipline was in 2023, in which he was given a last chance letter at his current employer. While the Commission appreciates that he has had positive work reviews since that incident, the fact remains that not enough time has elapsed to demonstrate that he could now be considered a reliable employee.

Interactions with BPD

Although none of the Appellant's interactions with the BPD led to arrest or conviction, one incident, which led to the Appellant's License to Carry being suspended, involved the Appellant apparently attempting to evade questioning by police when they came on scene at an establishment known to be frequented by gang members.

Not Forthcoming in Interview / Application

While it may have been an oversight (given that he disclosed this fact on a prior application), in the Appellant's 2024 application package he stated that he had never been terminated from employment. In fact, he had been terminated from at least two prior positions. Attention to detail and being forthcoming are very important qualities that are critical for a police officer to possess. During his interview with BPD investigators, the Appellant was frequently vague and misleading. When confronted with the text messages from the RICO investigation, he attempted to deny they were his and even put forth the theory that he wasn't even sure if he had that phone number at that point in time. To his credit, he admitted during testimony before the Commission that it was his phone and he had sent the text messages. However, during the interview with BPD investigators, he repeatedly denied knowing gang members or having any association with them despite being saved as contacts in each other's phones as well as following each other on social media. While I understand the Appellant's desire to disassociate with gang

members when being interviewed for the position of police officer, nevertheless, his evasiveness only further calls into question his suitability to be a law enforcement officer.

RICO Investigation

The most troubling issue is the Appellant's obvious ties to street gangs. Through the testimony and reports authored by Detective Gunther, whom I found credible, as well as work product from Federal RICO investigation surrounding these gangs, it is readily apparent that the Appellant was an active participant in gang related conversations. During the interview with BPD investigators, the Appellant would frequently deflect or try to justify his association and communication with known gang members. The repeated attempts to distance himself from the matters at hand further calls into question his suitability.

When examining the conversations uncovered during the RICO investigation, the Appellant regularly gave information to gang members regarding where rival gang members were located, what vehicles rivals were operating, and alerted gang members to the presence of law enforcement cameras in the area. These conversations often addressed committing acts of violence against the people he discussed in the messages. He also encouraged gang members to carry firearms due to rival gang activity and other times warned them not to carry due to police presence. He offered a rifle for sale on the group text message, discussed who had bullets available, and even discussed strategy for committing violence on members of the rival gang.

This is not a case of the Appellant simply having family and neighbors involved in a life that he was not a part of. This is a case of the Appellant taking an active role in supporting gang related activity. Even without the incriminating text messages, the continued association with these gang members would cause any potential public safety employer grave concern.

CONCLUSION

For all of the above-stated reasons, the appeal of Lucas Ribeiro, filed under docket number G1-24-135, is hereby *denied*.

Civil Service Commission

/s/ Shawn C. Dooley
Shawn C. Dooley
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney, & Stein, Commissioners [Markey – Absent]) on April 3, 2025.

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:

Lucas Ribeiro (Appellant)
Jennifer Cipolletti, Esq. (for Respondent)