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SUFFOLK, ss.

COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

SUPERIOR COURT
CIVIL ACTION
NO. 2014-00371

ARIANA RIVERA

vs.

DEPARTMENT OF CORRECTIONS & another¹

(LAT)

MEMORANDUM AND ORDER ON PLAINTIFF'S
JUDGMENT ON THE PLEADINGS

Pursuant to G. L. c. 30A, § 14, the plaintiff, Ariana Rivera, brought this action against the Department of Corrections (the "Department") and the Civil Service Commission (the "Commission") seeking to overturn the decision of the Commission for sustaining her discharge from her position as a correctional officer based upon allegations of misconduct first brought to light by a confidential informant. Before the court are two very narrow issues: (1) whether the Commission erred by denying the plaintiff's motion to disclose the identity of the confidential informant; and (2) whether the Commission erred by denying her motion to suppress the evidence obtained as the fruits of the subpoena.

Turning to the first issue, the court finds that the Commission did not err in denying the plaintiff's motion to disclose the identity of the confidential informant. The plaintiff did not produce, nor is the court aware of, any Massachusetts cases requiring the disclosure of a confidential informant in a civil proceeding. Furthermore, even if the court were to adopt the test applied in the criminal context, the plaintiff has not demonstrated that the benefit to her case of disclosure

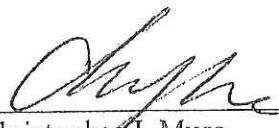
¹ Civil Service Commission

outweighs the public policy favoring non-disclosure. See Commonwealth v. Figueroa, 74 Mass. App. Ct. 784, 791 (2009).

With regards to the second issue, the court is mindful of the holdings of Kelly v. Civil Serv. Comm'n, 427 Mass. 75 (1998) and Selectmen of Framingham v. Municipal Ct. of the City of Boston, 373 Mass. 783 (1977), and finds that the Commission did not err in the denying the plaintiff's motion to suppress evidence obtained through the Middlesex District Attorney's Office subpoena on the plaintiff's cell-phone provider. The Commission had a substantial interest in reviewing probative evidence that was validly obtained through an administrative subpoena by an independent investigating agency. Accordingly, the remedies of the exclusionary rule are not available.

It is therefore **ORDERED** that the Plaintiff's motion for judgment on the pleadings is **DENIED** and the decision of the Civil Service Commission is **AFFIRMED**.

SO ORDERED.



Christopher J. Muse
Justice of the Superior Court

DATED: June 15, 2015