

NOTICE: Decisions issued by the Appeals Court pursuant to its rule 1:28 are primarily addressed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, rule 1:28 decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28, issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent.

COMMONWEALTH OF MASSACHUSETTS APPEALS COURT

TONY RODRIGUES vs. CITY OF BROCKTON & another. [FN1]

09-P-515

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

The plaintiff, Tony Rodrigues, concedes that the terms of the consent decree were properly applied. Although the effect of the formula in this particular case appears to run counter to the intent of the decree, the appropriate recourse would be for the plaintiff to file an action in Federal District Court, which retains jurisdiction over its implementation. *Castro v. Beecher*, 386 F. Supp. 1281, 1286 (1975). For substantially the reasons set forth at pages 5-9 of the Civil Service Commission's brief, we conclude that the exclusion of the plaintiff's name from the list of candidates was compelled by the terms of the consent decree. Therefore, he was not a 'person aggrieved' within the meaning of G. L. c. 31, § 2(b), and the commission lacked jurisdiction over the matter.

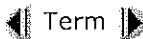
*Judgment affirmed.*

By the Court (Lenk, Grasso & Vuono, JJ.),

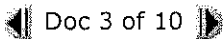
Entered: June 29, 2010.

FN1. Civil Service Commission.

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