

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

FERRUCCIO ROMEO,
Appellant

v.

E-18-222

TOWN OF WINTHROP,
Respondent

Appearance for Appellant:

Pro Se
Ferruccio Romeo

Appearance for Respondent:

Howard Greenspan, Esq.
200 Broadway
Lynnfield, MA 01940

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On November 10, 2018, the Appellant, Ferruccio Romeo (Mr. Romeo), a police officer for the Town of Winthrop (Town), filed an appeal with the Civil Service Commission.
2. On November 19, 2018, Mr. Romeo filed a “motion to amend appeal” and a “motion for speedy hearing”.
3. On December 4, 2018, I held a pre-hearing conference which was attended by Mr. Romeo and, via phone, counsel for the Town.
4. As part of the pre-hearing conference, Mr. Romeo provided clarification regarding his appeal. According to Mr. Romeo:
 - A. On January 9, 2015, the Town terminated him as a police officer.
 - B. An arbitrator overturned the termination.
 - C. Judicial appeals by the Town were unsuccessful.
 - D. Mr. Romeo was returned to the payroll on 7/22/18 and returned to duty on 9/7/18.
5. Based on the documents and the statements of the parties, it appears the following also occurred:

- a. An arbitrator approved a mutual agreement of the parties allowing Mr. Romeo to sit for a make-up promotional examination for sergeant on October 25, 2018.
 - b. As part of a separate discrimination case, Mr. Romeo sought a Superior Court Order allowing him more time to prepare for the make-up examination, which took the form of an Assessment Center. The Superior Court denied his request.
 - c. On October 25, 2018, Mr. Romeo took the Assessment Center promotional examination for sergeant and receive a score of 78.
6. Mr. Romeo, via his appeal to the Commission, sought the following relief:
- I. To be placed at the top of the eligible list for sergeant .
 - II. To be allowed to sit for an upcoming promotional examination for lieutenant, notwithstanding the civil service law, which states, in part, that only those “in the next lower title” (i.e. – sergeant) are eligible to sit for the promotional examination (i.e. – for lieutenant).
7. Mr. Romeo argued that relief is warranted, in part, because he was prejudiced by the change in format of the examination. Specifically, Mr. Romeo argued that, had he not been terminated, he would have sat for a “traditional” multiple choice examination in 2015, as opposed to an assessment center-type examination in 2018. Further, Mr. Romeo continues to argue that he was prejudiced by the lack of time to prepare for the examination.
8. Mr. Romeo argued that, had he not been terminated, he may have been promoted to sergeant, allowing him to sit for the lieutenant’s promotional examination. Further, Mr. Romeo argued that he has performed many of the duties of sergeant over the years.
9. Three other Winthrop police officers have filed an appeal with the Commission, contesting whether Mr. Romeo should have been able to sit for the make-up examination on October 25th.
10. The Town had thirty (30) days to file a Motion for Summary Decision and Mr. Romeo had thirty (30) days thereafter to file an opposition and Cross-Motion for Summary Decision.
11. The Town submitted a Motion to Dismiss on January 2, 2019. Mr. Romeo filed an opposition to the Town’s motion and a Motion for Summary Decision on February 1, 2019.
12. An updated eligible list for Sergeant was established on April 1, 2019. Mr. Romeo is ranked third.

Analysis

I have carefully reviewed the parties’ submissions, including Mr. Romeo’s detailed Motion for Summary Decision. Mr. Romeo has already received the appropriate relief. Over the objection of other police officers, Mr. Romeo, upon his reinstatement, was allowed to sit for a make-up examination for police sergeant. Permanent promotional appointments to sergeant were on hold

until such time as an updated eligible list was established. Mr. Romeo took the make-up examination and has now been added to the eligible list, ranked third (within the statutory “2N+1” formula for any future vacancy.) No further relief is warranted.

For this reason, Mr. Romeo’s appeal under Docket No. E-18-222 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on May 9, 2019.

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:

Ferruccio Romeo (Appellant)
Howard Greenspan, Esq. (for Respondent)