

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

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

ANTHONY SANSEVERO,  
Appellant

v.

G1-18-020

CITY OF QUINCY,  
Respondent

Appearance for Appellant:

Timothy M. Burke, Esq.  
Jared S. Burke, Esq.  
Law Offices of Timothy M. Burke  
160 Gould Street, Suite 100  
Needham, MA 02494

Appearance for Respondent:

Janet S. Petkun  
Assistant City Solicitor  
Quincy City Hall  
1305 Hancock Street  
Quincy, MA 02169

Commissioner:

Christopher C. Bowman

**DECISION**

On February 1, 2018, the Appellant, Anthony Sansevero, (Mr. Sansevero) pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the City of Quincy (City) to bypass him for original appointment to the position of police officer. On March 6, 2018, I held a pre-hearing conference at the offices of the Commission, which was followed by a full hearing at the same location on May 1, 2018.<sup>1</sup> The

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<sup>1</sup> The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

full hearing was digitally recorded and both parties received a CD of the proceeding.<sup>2</sup> On June 15, 2018, the parties submitted post-hearing briefs in the form of proposed decisions.

## **FINDINGS OF FACT**

Thirty-two (32) Exhibits were entered into evidence at the hearing. Based on the documents submitted and the testimony of the following witnesses:

*For the City:*

- Chief Paul Keenan, Chief of the Quincy Police Department;
- Patricia McGowan, City of Quincy Director of Human Resources

*For Mr. Sansevero:*

- Anthony Sansevero, Appellant;

I make the following findings of facts:

1. Mr. Sansevero is forty-one (41) years old and has been a lifelong resident of Quincy, MA. He graduated from Boston College High School; holds a Bachelor of Arts in Psychology from Boston College; and an Associate's Degree in Science-nursing from Laboure College of Nursing. At the time of the bypass, Mr. Sansevero was enrolled at the University of Massachusetts-Boston, where he has since obtained his Bachelor's Degree in Nursing.  
(Testimony of Appellant)
2. Mr. Sansevero had previously been employed by the City of Quincy (City) as Assistant Benefits Coordinator for the Human Resources Department until his position was eliminated in 2010. (Testimony of Appellant and Patricia McGowan)

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<sup>2</sup> 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 he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. If such an appeal is filed, this CD should be used to transcribe the hearing.

3. On April 25, 2015, Mr. Sansevero took the civil service examination for police officer and received a score of 98. (Stipulated Fact)
4. As a result of passing the civil service examination, Mr. Sansevero's name appeared on an eligible list of candidates for Quincy Police Officer, established in October 2015. (Stipulated Fact)
5. On June 13, 2017 and July 11, 2017, HRD issued Certification No. 04711 to the City, from which the City ultimately appointed fifteen (15) police officers, one (1) of whom was ranked below Mr. Sansevero. (Stipulated Facts)
6. On July 20, 2017, Mr. Sansevero submitted his "Pre-Employment Candidate Questionnaire" to the Quincy Police Department. (City Exhibit 9)
7. Under "Employment History," Mr. Sansevero stated the following relative to his employment with a nursing company (Nursing Company 1);  
  
"Contract employee with Nursing Company 1. New Director terminated me for giving out over the counter meds. (safe normal practice) without doctor orders. Improper protocol." (Exhibit 9)
8. Under "Employment History", Mr. Sansevero stated the following relative to his employment with another nursing company (Nursing Company 2):  
  
"At Nursing Company 2 ... had a med variance. Spilled narcotic. Was suspended. During suspension gave notice. Already obtained a new job. Was planning on leaving Nursing Company 2 due to severe staff shortage. Unsafe nurse/patient ratio." (Exhibit 9)
9. The normal process for reviewing candidate applications is to conduct a background investigation and then convene a roundtable to discuss the candidates. (Testimony of Patricia McGowan)
10. The City was under a time constraint during the hiring process because the eligible list was expiring on August 31, 2017. (Testimony of Chief Keenan)

11. On August 24, 2017, prior to completing Mr. Sansevero's background investigation, the City convened a roundtable to review the applications of police officer candidates. (Testimony of Patricia McGowan)
12. Patricia McGowan, Mayor Thomas Koch, Helen Murphy (former Director of HR), Jennifer Tapper (QPD Sgt.), Dennis Maloney (QPD Sgt.), the background investigator assigned to conduct Mr. Sansevero's background check, William Plant, and Chief Paul Keenan were present for the round table discussion of Mr. Sansevero and other candidates. (Testimony of Chief Keenan & Patricia McGowan)
13. There was mention of concerns over Mr. Sansevero's previous employment "and because it was considered serious there really wasn't a lengthy conversation at all because of it."  
(Testimony of Patricia McGowan)
14. On August 27, 2017, three days after the roundtable discussion, Mr. Sansevero was contacted to come to the Quincy Police Department to be interviewed by the background investigator.  
(Testimony of Appellant)
15. It was explained to Mr. Sansevero that there was a rush to get the interview completed due to the fact that the civil service list was expiring in a few days. (Testimony of Appellant)
16. On August 28, 2017, two (2) Quincy Police Officers interviewed Mr. Sansevero. (Testimony of Appellant)
17. On August 30, 2017, the background investigator spoke with the human resources representative for Nursing Company 1. She confirmed Mr. Sansevero's employment dates and also confirmed that he was terminated. She declined to disclose the reason for termination. (City Exhibit 8)

18. On August 31, 2017, the background investigator spoke with a former nurse at a House of Correction which contracted with Nursing Company 1. The former nurse worked with Mr. Sansevero at the House of Correction for approximately one (1) year. The nurse stated that Mr. Sansevero was an average employee with a downfall of not following policy or procedure. (City Exhibit 8)
19. On August 31, 2017, the background investigator spoke with the Director of Nursing at Nursing Company 2. She confirmed that Mr. Sansevero was employed as a registered nurse from August 2016 to April 2017. The Nursing Director stated that Mr. Sansevero was placed on suspension and while on suspension he resigned. She stated that Mr. Sansevero had a narcotics spill which was not witnessed or properly documented which is a violation of policy and procedure. She stated that Mr. Sansevero was caring and compassionate. (City Exhibit 8)
20. On January 4, 2018, the City notified Mr. Sansevero that he was being bypassed for appointment as: “you were suspended from employment in 2017 for failure to follow policy regarding medication and later terminated from employment for failure to follow policy regarding medication.” (City Exhibit 10)
21. The City provided an additional reason for bypass that it now concedes would not, standing alone, justify a bypass. (Testimony of Chief Keenan)

### *Legal Standard*

The fundamental purpose of the civil service system is to guard against political considerations, favoritism, and bias in governmental hiring and promotion. The commission is charged with ensuring that the system operates on "[b]asic merit principles." Massachusetts Assn. of Minority Law Enforcement Officers v. Abban, 434 Mass. at 259, citing Cambridge v.

Civil Serv. Comm'n., 43 Mass.App.Ct. at 304. “Basic merit principles” means, among other things, “assuring fair treatment of all applicants and employees in all aspects of personnel administration” and protecting employees from “arbitrary and capricious actions.” G.L. c. 31, section 1. Personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Civil Service Commission to act. Cambridge at 304.

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.” Watertown v. Arria, 16 Mass.App.Ct. 331, 332 (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).

The Commission’s role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority’s actions. City of Beverly v. Civil Service Comm’n, 78 Mass.App.Ct. 182, 189, 190-191 (2010) citing Falmouth v. Civil Serv. Comm’n, 447 Mass. 824-826 (2006) and ensuring that the appointing authority conducted an “impartial and reasonably thorough review” of the applicant. The Commission owes “substantial deference” to the appointing authority’s exercise of judgment in determining whether there was “reasonable justification” shown. Beverly citing Cambridge at 305, and cases cited. “It is not for the Commission to assume the role of super appointing agency, and to revise those employment determinations with which the Commission may disagree.” Town of Burlington, 60 Mass. App. Ct. 914, 915 (2004).

## *Analysis*

The review process here was not flawless. Rather, the City acknowledges that parts of the review process were rushed in order to meet a pending deadline associated with the expiration of an eligible list. Specifically, the City had not met with and/or completed the background investigation of Mr. Sansevero before the roundtable assembled. Rather, the knowledge of the roundtable members appears to be limited to what Mr. Sansevero self-reported in his application for employment, including a recent suspension and a recent termination from two (2) different nursing companies. It was not until after the roundtable discussion that the City completed the background investigation and spoke to Mr. Sansevero and employees from the nursing companies. Obviously, the process would have been more thorough had the background investigation been completed before the roundtable discussion.

The City did, however, subsequently meet with Mr. Sansevero and reach out to the two nursing companies in question before making conditional offers of employment to the selected candidates. During a meeting with two (2) Quincy police officers, Mr. Sansevero acknowledged that he violated the rules and regulations of each employer, resulting in a suspension and termination. Although representatives from both employers spoke favorably of Mr. Sansevero on a personal level, they confirmed that he had violated company rules, with one former nurse stating that while Mr. Sansevero was “well liked” he was only an “average employee with a downfall of not following policy or procedure.”

Importantly, the rule violations occurred while working in a sensitive position governed by strict rules and regulations, just as the actions of police officers are governed by various rules and regulations. Chief Keenan testified convincingly that he was genuinely concerned about taking on a police officer who may have trouble following rules and regulations. Further, the

rule violations and resulting discipline were (very) recent, with the most recent rule violation and discipline occurring in April 2017, only two (2) months prior to the City commencing the hiring process here. Finally, Mr. Sansevero candidly acknowledged that the City's decision here does not appear to be a result of any personal or political bias against him. Also, the evidence does not support an argument that the decision to appoint the lower ranked candidate was based on factors unrelated to basic merit principles.

I also reviewed in detail the application and background investigation regarding the one (1) candidate who bypassed Mr. Sansevero. While the City identified certain negative factors related to that candidate, including negative entries on the candidate's driving history, there appear to be important factors distinguishing that candidate from Mr. Sansevero. Most importantly, the appointed candidate received positive employment references, including for her recent employment at a law enforcement agency.

In summary, the City has carried its burden of demonstrating a 'reasonable justification' for bypassing Mr. Sansevero *at this time* based solely on recent employment-related rule violations that resulted in his suspension and termination from two (2) different employers.

Assuming Mr. Sansevero has no further disciplinary issues, the City, with the passage of time, would have a much more difficult time showing that these two rule violations, standing alone, provide a valid reason for bypass, particularly considering the (many) positive attributes of Mr. Sansevero.

#### *Conclusion*

For all of the above reasons, Mr. Sansevero's appeal under Docket No. G1-18-020 is hereby ***denied.***



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 December 20, 2018.

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:

Timothy Burke, Esq. (for Appellant)  
Jared Burke, Esq. (for Appellant)  
Janet Petkun, Esq. (for Respondent)