

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**  
One Ashburton Place: Room 503  
Boston, MA 02108  
(617) 979-1900

JAMES SANTOS,  
Appellant

v.

G2-21-154

DEPARTMENT OF CORRECTION,  
Respondent

Appearance for Appellant:

*Pro Se*  
James Santos

Appearance for Respondent:

Joseph Santoro  
Department of Correction  
Division of Human Resources  
50 Maple Street, 1<sup>st</sup> Floor  
Milford, MA 01757

Commissioner:

Christopher C. Bowman

**ORDER OF DISMISSAL**

On August 25, 2021, the Appellant, James Santos (Appellant), filed a bypass appeal with the Civil Service Commission (Commission), stating that he was “bypassed” for promotional appointment to the position of Correctional Program Officer A/B (CPO A/B) by the Department of Correction (DOC). Specifically, the Appellant wrote in part that “CPO [JB] was [given] a CPO C promotion and he is not on the promotion list. I am currently the top person on the CPO C promotional list.”

On October 5, 2021, I held a remote pre-hearing conference which was attended by the Appellant and a representative for DOC. The parties agreed that, subsequent to the Appellant filing his appeal with the Commission, he has received a conditional offer to be permanently

promoted to CPO C at the Pondville Correctional Center. The Appellant argued that the delay in granting him this promotion, which, according to the Appellant was caused by an impermissible temporary promotion of JB, has caused him to potentially lose out on an open functional title that may not be available when his promotional appointment becomes effective.

The Appellant's appeal is dismissed for the following reasons. First, the Commission has no jurisdiction over the awarding of non-civil service functional job titles; that falls squarely under the provisions of the collective bargaining agreement. Second, in regard to whether JB served in the position of CPO C impermissibly, the civil service law allows for emergency appointments for at least thirty (30) days and it appears to be undisputed that JB served as a CPO C for less than thirty (30) days. Third, the traditional relief awarded to Appellants who prevail in a bypass appeal is to place their name at the top of the next certification to ensure reconsideration for the next available promotional appointment, something the Appellant has already received.

For all of the above reasons, the Appellant's appeal under Docket No. G2-21-154 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman  
Christopher C. Bowman  
Chair

By a vote of the Civil Service Commission (Bowman, Chair; Camuso, Ittleman, Stein and Tivnan, Commissioners) on November 4, 2021.

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:

James Santos (Appellant)

Joseph Santoro (for Respondent)