

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN , ss.

SUPERIOR COURT  
CIVIL ACTION  
No. 23CV162

HAMPDEN COUNTY  
SUPERIOR COURT  
FILED

DEC 19 2023

MARC SAVAGE

vs.

*James J. Feeney*  
CLERK OF COURTS

MASSACHUSETTS CIVIL SERVICE COMMISSION and THE CITY OF  
SPRINGFIELD, MASSACHUSETTS

DECISION AND ORDER ON CROSS MOTIONS FOR JUDGMENT ON THE  
PLEADINGS

The Plaintiff Marc Savage (Mr. Savage”) brings this action pursuant to G.L. c. 30A seeking administrative review by this court of a decision dated March 9, 2023, by the Defendant Civil Service Commission (“CSC”). The March 9, 2022, Decision found that it lacked jurisdiction because Savage was not a person aggrieved under G.L. c. 31, section 2(b). the CSC also declined to exercise its discretionary authority to initiate an investigation of Mr. Savage’s claims under G.L. c. 31, section 2(a). Mr. Savage seeks an Order from this Court directing the CSC to exercise jurisdiction, declare that he is a person statutorily aggrieved, and order an evidentiary hearing on remand. A hearing as held on this appeal before this Court on December 5, 2023.

Mr. Savage alleged in his “equity appeal” to the CSC that the defendant City of Springfield (“Springfield”) and “certain members of the Springfield Fire Department ‘lied’ in an investigative report that rendered an adverse outcome that affected/affects my employment status and future employment prospects”. There is virtually no explanation in the balance of the appeal as to what the allegation specifically means, the actors, the time frames, and most importantly beyond the vaguest of generalities, what specific employment opportunity or adverse

employment action befell Mr. Savage. Mr. Savage claimed that he was retired and enrolled in a degree program and fears that at some undetermined “point” in the future he will seek a recommendation that will result in a retaliation by Springfield.

The following facts were adduced by the CSC:

1. Mr. Savage retired in April 2022 as a District chief of Springfield fire Department after over forty years of service.
2. Mr. Savage has been the lead plaintiff in a separate superior court lawsuit against Springfield seeking enforcement of a municipal ordinance that requires certain Springfield employees to live within the geographical limits of Springfield to be eligible for employment.
3. Mr. Savage is also the lead plaintiff in a Federal employment discrimination lawsuit against Springfield.
4. In August 2017 a Springfield Fire Department Deputy Chief authored a report that resulted in a one-day suspension for Mr. Savage. This suspension was later appealed to the CSC which was thereafter reduced to a written reprimand by settlement.
5. Mr. Savage claims that depositions in the Federal case developed information that the August 2017 report “is wrought with misrepresentations, mischaracterizations, and outright lies”. He claims that the report was an instance of Springfield retaliating against him for pursuing the residency lawsuit in Superior Court.
6. Mr. Savage complained that Springfield “put forth false negative narratives regarding my professionalism” with the Fire Department.
7. It is conceded by the parties that Mr. Savage is Retired and no longer employed by Springfield.

The CSC dismissed the “equity complaint” after determining that Mr. Savage was not a person statutorily aggrieved. There was no error in that determination. To be a person aggrieved under G.L. c. 31, section 2(b) Mr. Savage must have made “specific allegations ... that a decision, action, or failure to act on the part of (Springfield) was in violation of this chapter, the rules or basic merit principles ... and said allegations shall show that such person rights were abridged, denied or prejudiced in such a manner as to cause *actual harm* to the person’s employment status” (emphasis supplied). Mr. Savage bore the burden to demonstrate standing, *Pugsley v. Police Dept of Boston*, 472 Mass. 367, 373 (2015).

Mr. Savage does nothing more than to speculate, wildly in my judgment, about the potential future employment opportunities. *Sullivan v. Chief Justice for Admin & Mgt. of the Trial Court*, 448 Mass. 15, 21 (2006). Mr. Savage must show, and has not, that he “has sustained or is immediately in danger of sustaining some direct injury... that is real and immediate, not conjectural or hypothetical. *Pugsley*, 472 Mass. at 371, citing *Los Angeles v. Lyons*, 461 US 95, 101 (1983).

Mr. Savage does not even allege that he is currently applying for a position. The Court attempted at oral argument to have Mr. Savage articulate the actual harm that he is currently suffering and the best he could do was to claim that his CSC petition was to “clear his good name”. There is no allegation that Mr. Savage has suffered “actual harm” and thus, the jurisdiction of the CSC is not triggered or available.

Moreover, the Court finds no abuse of discretion or error of law in the CSC declining to exercise its discretionary authority under G.L. c. 31, section 2(a) to investigate or initiate an

independent review Mr. Savage's personnel file. *Mass. Inst. of Tech. v. Dep't of Pub. Utils.*, 425 Mass. 856, 868 (1997).

Finally, Mr. Savage swings wildly and asserts generally and without any citation to authority that "name clearing" is an essential right in civil proceedings. Similarly, Mr. Savage tosses out language like "hostile environment". Both arguments, and numerous others, miss the mark because none allege imminent non conjectural "actual harm". There is, in short, no employment situation to protect. The CSC does not exist as a catch all forum to air all employment grievances, real or imagined. The petition was properly dismissed after a full and fair opportunity for Mr. Savage to state his claim in a legally cognizable manner.

**ORDER**

For the foregoing reasons, it is **ORDERED** that the plaintiff's Motion for Judgment on the Pleadings is **DENIED**, and the Defendants' Cross motions for judgment on the Pleadings is **ALLOWED**. Judgment shall enter **AFFIRMING** the Decision of the Civil Service Commission dated March 9, 2023.

  
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MICHAEL K. CALLAN  
Justice of the Superior Court

DATE: 12/15/23