

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

One Ashburton Place – Room 503

Boston, MA 02108

617-979-1900

CODEY SAWYER,
Appellant

v.

G1-18-058

CITY OF LOWELL,
Respondent

Appearance for the Appellant:

Pro Se
Codey Sawyer

Appearance for the Respondent:

Christine P. O'Connor, Esq.
City Solicitor¹
City of Lowell Law Department
375 Merrimack Street, 3rd Floor
Lowell, MA 01852-5909

Commissioner:

Cynthia A. Ittleman

DECISION

On March 27, 2018, the Appellant, Codey Sawyer (“Mr. Sawyer” or “Appellant”), pursuant to the provisions of G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (Commission) contesting the decision of the City of Lowell (“City”) to bypass him for original appointment to the position of permanent full-time police officer with the Lowell Police Department (“LPD”).

¹ Adam R. LaGrassa, then-Assistant City Solicitor of Lowell, and Rachel Brown, then First Assistant City Solicitor of Lowell, represented Lowell up to the hearing and submission post-hearing briefs but appear to be no longer employed there at this time. As a result, this decision is addressed to City Solicitor Christine O'Connor.

A pre-hearing conference was held on May 14, 2018, and a full hearing was held on June 11, 2018 at the Armand Mercier Community Center in Lowell.² The full hearing was digitally recorded, and copies of the recordings were provided to the parties.³ Both parties submitted post-hearing briefs. Based on the facts and the law as found herein, the appeal is allowed.

FINDINGS OF FACT

The parties stipulated to certain facts and additional exhibits were entered into evidence at the full hearing (Exhibits 1 through 9 for the City, and Exhibits A through F for Mr. Sawyer); the record was left open for the parties to submit additional documentation, which I received and of which I take administrative notice. The following witnesses testified:

Called by the City:

- Sgt. James Fay, LPD, Director, Lowell Police Academy
- Jonathan Webb, LPD, Acting Superintendent
- Deborah Friedl, LPD, Deputy Superintendent

Called by the Appellant:

- Codey Sawyer, Appellant
- Michael Ferrant, Appellant's Sergeant in the military⁴

² 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.

³ 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 they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, this digital recording should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

⁴ As an employee of the Vermont State House, Mr. Ferrant was unable to appear personally at the hearing. Instead, Mr. Ferrant testified remotely by computer. Both parties were able to view and hear Mr. Ferrant and conduct direct and cross-examinations of him. I was able to see and hear Mr. Ferrant testify.

- Tyler Grant, Appellant’s lifelong friend
- Vanita Sawyer, Appellant’s wife

Based on the documents submitted and the testimony of the witnesses, and taking administrative notice of all matters filed in the case and pertinent statutes, regulations, case law and policies, and reasonable inferences from the evidence, a preponderance of the evidence establishes the following facts:

1. On March 25, 2017, Mr. Sawyer took the Civil Service examination for police officer and passed it with a score of 88. (Stipulated Facts)
2. On December 5, 2017, pursuant to a request of the City to appoint 20 permanent full-time police officers, the Massachusetts Human Resources Division (“HRD”) issued Certification #05088 to the City. Mr. Sawyer’s name appeared tied for 19th position on the Certification . (Stipulated Facts)
3. As part of the City’s hiring process, applicants are subject to a background investigation and are required to provide certain documentation, including military discharge paperwork for applicants who identify prior military service or claim veteran status. (Testimony of Fay)
4. Applicants are also required to participate in an oral board interview in which they are asked a pre-determined set of questions by a three-member panel, with particularized follow up inquiry where applicable. The oral board panel for all interviews conducted during this hiring round consisted of Sgt. James Fay, Deputy Superintendent Deborah Friedl, and Captain Jonathan Webb, the Acting Superintendent at the time of the hearing. (Testimony of Fay, Friedl, and Webb)

5. The panel members took notes about each applicant's demeanor and responses to the questions but no numerical or standardized scoring system was used. (City Exs. 6, 7, 8 and 9)
6. The oral board panel was responsible for making recommendations to then-LPD Superintendent William Taylor as to which candidates should receive conditional offers of employment and move on in the hiring process and which candidates should be bypassed. (Testimony of Fay, Friedl and Webb)
7. The oral board panel recommended that the City bypass Mr. Sawyer and this recommendation was accepted by Superintendent Taylor and the City Manager. The City Manager is the appointing authority. (Testimony of Fay, Friedl and Webb)
8. By letter to HRD dated January 29, 2018, the City identified the specific reasons relied upon to support the decision to bypass Mr. Sawyer. The City's reasons are summarized as follows: (1) Mr. Sawyer's failure to provide requested documentation concerning his prior military service; (2) Mr. Sawyer's testing positive for cocaine when he was sixteen (16) years old and the explanation he gave for the test result; (3) Mr. Sawyer's unprofessional and immature demeanor during the oral interview; and (4) Mr. Sawyer's statements during the oral interview which led to a concern about his ability to complete the Lowell Police Academy. (Exs. 1 and 6)
9. On March 23, 2018, Mr. Sawyer was notified by HRD that the reasons for bypass as set forth in the City's January 29, 2018 bypass letter were acceptable and he

was further notified of his right to appeal that determination. Thereafter, Mr. Sawyer timely filed his appeal. (Stipulated Facts)

10. At the Commission hearing, the Appellant was articulate and an open book, giving direct answers to questions and explaining himself, events and his intentions. In high school at age sixteen (16), with his parents' assent, the Appellant enlisted in the military while attending school. The Appellant's activities while in high school included, among other things, weekly meetings with a service representative. After graduating from high school, Mr. Sawyer served in the U.S. Army Reserves, serving for approximately seven years, from November 2009 through November 2016. From June 2015 through July 2016, he was in active service with deployments in Kuwait and Iraq. The Appellant explained that he did not go to college after high school because he does not believe that he performs best exclusively in a classroom setting. At the age of twenty-five (25) at the time of the hearing, the Appellant indicated that he is married, has already bought a home, and was a new father. The Appellant is fully committed to doing whatever it takes to become a police officer. (Testimony of Sawyer; Ex. 3)
11. Since Mr. Sawyer claimed veteran's status, he was required by the City, as part of the hiring process, to provide a complete and current form DD214 (i.e., "Department of Defense Form 214 - Certificate of Release of Discharge from Active Duty). (Testimony of Fay)
12. Mr. Sawyer timely provided to the City his DD214, which noted his periods of active service and reserve service, the medals and campaign ribbons awarded, and

- his being honorably discharged from service. (Testimony of Sawyer; Exs. 3, 4, and 5; Ex. D)
13. During the oral interview, the panel questioned whether Mr. Sawyer had submitted an accurate or the most recent version of the DD214 because the panel was unfamiliar with DD214s for veterans like Mr. Sawyer who had served active-duty in the U.S. Army after his reserve service in the U.S. Army Reserves. (Testimony of Fay; City email to CSC dated June 22, 2018 in Ex. E)
 14. Two days after the oral interview, Detective Erickson, the background investigator for the LPD, asked Mr. Sawyer to ask the National Archives to produce another DD214 for resubmittal directly to the City. On the same day that Det. Erickson asked Mr. Sawyer to obtain an additional DD214 from the National Archives, Mr. Sawyer promptly made this request in writing to the National Archives. Through no fault of Mr. Sawyer, the National Archives did not send the additional DD214 form to the City until the day after the bypass decision was made. Nothing in the new DD214 documentation sent by the National Archive to the City was inconsistent with the DD214 initially provided by Mr. Sawyer to the City. (Testimony of Sawyer; Exs. D and E)
 15. During the oral interview, Mr. Sawyer informed the panel that prior to joining the military, when he was participating in a high school military recruitment program at the age of sixteen, he tested positive for the use of cocaine. The recruitment program conducted drug tests on the student recruits. The interview panelists were unfamiliar with the high school military recruitment program in which Mr. Sawyer had participated. (Testimony of Fay, Friedl, Webb and Sawyer)

16. At his LPD interview, Mr. Sawyer denied that he used or uses illegal drugs except for the use of marijuana a few times when he was fourteen and fifteen years old. (Testimony of Fay, Friedl, Webb and Sawyer)
17. Mr. Sawyer told the oral interview panel that the reason for the positive cocaine test result when he was in high school was that he had been at a friend's house where crack cocaine was being smoked by adults and that he apparently ingested second-hand smoke that was in the air. (Testimony of Fay, Friedl, Webb and Sawyer)⁵
18. The oral interview panel believed that Mr. Sawyer's positive drug test result explanation was implausible. (Testimony of Fay, Friedl and Webb)
19. In his seven years of service in the U.S. Army Reserves, the Appellant never failed the random drug tests whenever they were administered. (Testimony of Sawyer)
20. The City had no specific policy or guidelines concerning the effect an applicant's prior drug use would have on the hiring decision. (Testimony of Fay)
21. Mr. Sawyer submitted a letter of recommendation in support of his candidacy from Michael Ferrant, who had been his supervising sergeant for several years in the military, including during Mr. Sawyer's overseas active duty period. Mr. Ferrant is retired from the military and now works at the Vermont State House. (Testimony of Ferrant; Ex. 2)
22. Mr. Farrant's recommendation letter stated that Sawyer is professional, reliable, and dependable, with a strong work ethic. The letter also stated that although Mr.

⁵ At the Commission hearing, the Appellant similarly denied using crack cocaine at any time. (Testimony of Appellant)

- Sawyer would “sometimes offer a somewhat ‘immature’ personality, he NEVER displayed anything less than total professionalism when it came to combat or tactical training.” Mr. Ferrant highly recommended Mr. Sawyer for employment as a police officer. (Ex. 2; Testimony of Ferrant)
23. Upon reflection during his testimony, Mr. Ferrant found that his use of the word “immature” was an inappropriate usage of that word since he meant to convey only Mr. Sawyer’s sense of humor and ability to instill camaraderie and relieve stress among his fellow soldiers outside of combat and training. Mr. Ferrant apologized for the miscommunication. (Testimony of Ferrant; Ex. A)
24. As proof of his positive assessment of Mr. Sawyer, Mr. Ferrant indicated that, given Mr. Sawyer’s assignment as a 50-caliber machine gunner and his performance in that capacity, in fact Mr. Sawyer is very mature and that Mr. Ferrant would not entrust Mr. Sawyer with that assignment if Mr. Sawyer were immature. (Testimony of Ferrant)
25. As further evidence of his maturity, Mr. Sawyer indicated that he bought a house at the age of 23 for his family and that he had been entrusted to take full-time care of a paralyzed in-law for a period of time. (Testimony of Sawyer)
26. After the oral interview, the panel discussed what could be perceived to be Mr. Sawyer’s inappropriate laughing during the questioning, although only one of the panel members’ interview notes reflected that to be the case. During that discussion, the panelists attributed this behavior not to nervousness or some other non-disqualifying reason, but to the immaturity referenced in Mr. Ferrant’s recommendation letter. (Testimony of Fay, Friedl and Webb; Exs. 6, 7, 8 and 9)

However, Mr. Sawyer arrived early for his interview and he was nervous. An officer in the Department saw that he was nervous and told him to relax and show a bit of personality during his interview to be more comfortable. Thus, Mr. Sawyer's behavior at the interview was in fact a reflection of nervousness.

(Testimony of Sawyer)

27. Mr. Sawyer did not go to college after graduating high school, opting to join the military instead. (Testimony of Sawyer)
28. A college education is not a requirement for employment with the LPD.
(Testimony of Fay)
29. Newly appointed police officers are required to complete the Police Academy.
(Testimony of Fay, Friedl and Webb)
30. The Police Academy is very fast paced and intensive, with the first three months consisting almost entirely of rigorous classroom work on topics such as criminal law, criminal procedure, ethics, medical training, and accident reconstruction. Classroom sessions typically operate for six hours per day, five days per week. There are weekly quizzes and quarterly tests. (Testimony of Fay, Friedl and Webb)
31. Mr. Sawyer stated at the interview that he was not a smart man and that he did not think he would succeed in a classroom environment. (Testimony of Fay, Friedl and Webb) While the Appellant admitted at the hearing that he told the LPD interviewers, trying to be humble, that he is not a smart man, he considers himself to be an intelligent person, although not well-educated. He further indicated that if he had the time and the means that he would attend college, especially if it

- helped him become a police officer, but in the interim he has served his country in the military for six or more years, during which time he learned a significant amount, and he had served his family by taking care of his then-girlfriend's (now wife's) minor sister and then his wife's paralyzed grandfather. (Testimony of Appellant)
32. During the current round of hiring, two applicants other than Mr. Sawyer were bypassed because of the City's concerns about their ability to complete the Police Academy. (Testimony of Friedl)
33. In the previous hiring round, a number of applicants sent to the Police Academy failed. (Testimony of Fay) The City incurs various costs in sending a person to the Police Academy, including the cost of uniforms, equipment and recruit salaries. In addition, if a person fails to complete the Police Academy, there will be a year's delay in filling a needed slot in the Police Department. (Testimony of Fay, Friedl and Webb)

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. 256, 259 (2001), citing Cambridge v. Civil Serv. Comm'n., 43 Mass.App.Ct. 300, 304 (1997). "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, § 1.

“When there are, in connection with personnel decisions, overtones of political control or objectives unrelated to merit standards or neutrally applied public policy, then the occasion is appropriate for intervention by the [civil service] commission. It is not within the authority of the commission, however, to substitute its judgment about a valid exercise of discretion based on merit or policy considerations by an appointing authority....In the task of selecting public employees of skill and integrity, appointing authorities are invested with broad discretion.” City of Cambridge, 43 Mass.App.Ct. at 304-305. Such deference is especially appropriate with respect to the hiring of police officers. In light of the high standards to which police officers appropriately are held, appointing authorities are given significant latitude in screening police officer candidates. *See, e.g., 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. 814, 824-826 (2006).

In reviewing a bypass decision by an appointing authority, the role of the Civil Service Commission is to determine “whether the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority.” City of Cambridge v. Civil Service Commission, 43 Mass.App.Ct. at 304. An action is justified when it is “done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and correct rules of law.” Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482 (1928).

Further, G.L. c. 31, § 2(b) requires that bypass cases be determined by a preponderance of the evidence. A “preponderance of the evidence test requires the Commission to determine whether, on a basis of the evidence before it, the Appointing Authority has

established that the reasons assigned for the bypass of an Appellant were more probably than not sound and sufficient.” Mayor of Revere v. Civil Service Commission, 31Mass.App.Ct. 315 (1991); G.L. c. 31, § 43. More recently and specifically, the Supreme Judicial Court, in Boston Police Department v. Civil Service Commission and another, 483 Mass. 461, 469 (2019), added that it is an Appointing Authority’s “burden to establish such reasonable justification by a preponderance of the evidence.” Id. at 469. “[W]here, as here [in the case of alleged cocaine ingestion], the alleged misconduct [leading to a bypass] is disputed, an appointing authority is entitled to such discretion **only** if it demonstrates that the misconduct occurred by a preponderance of the evidence.” Boston Police Dep’t, supra, 483 Mass. at 477 (emphasis in original).

Analysis

Based upon applicable legal standards and the evidence presented in this case, the City has not established by a preponderance of the credible evidence that it had reasonable justification for bypassing the Appellant for original appointment to the position of permanent full-time police officer with the City of Lowell. Rather, the City mistook information provided by the Appellant, or acted based on a lack of information by those involved in the LPD recruit hiring process, to draw conclusions that were not supported by the evidence.

Police Academy

The City asserted that it had serious concerns about whether Mr. Sawyer would be able to successfully complete the Police Academy if he were hired and that accepting him was not a risk that it was willing to take. While the Appellant openly testified and told the LPD interview panel that a classroom setting may not be his optimal learning

environment, the City's conclusion that he would fail out of the academy is little more than speculation. It justified its actions, in part, on the failure of other prior candidates to successfully complete the academy. The performance of other candidates has no bearing on the Appellant's abilities. In fact, the Appellant performed well enough on the police officer civil service exam to rank among the highest scorers on the exam such that he was among those who were qualified to be considered by the LPD. The civil service exam is highly competitive and the Appellant was clearly able to study and prepare himself to perform well on the exam. The City offered no evidence that the Appellant has failed or otherwise performed poorly in any academic or training environment. In the approximately seven years that the Appellant served in the military, he received a variety of trainings and, as his superior officer for years reported, performed well in a key battle position after training. That the Appellant served in the military after high school instead of college is of no negative consequence and attending college is not a requirement of the LPD. As a veteran, the Appellant is knowledgeable about the chain of command, which is crucial to the effective operation of a police department. Moreover, the Appellant articulated his affirmative commitment to do whatever it takes to become a police officer, including preparing to represent himself in the Commission hearing on this matter, which he did capably.

Positive Test for Cocaine

The City has not established by a preponderance of the evidence that it had reasonable justification for bypassing Mr. Sawyer in connection with his positive drug test when he was a teenager. During the oral interview, Mr. Sawyer candidly admitted that he had tested positive for cocaine when he was sixteen years old, approximately two

(2) years before he graduated from high school in 2011, which was nearly a decade before the Appellant applied to the LPD. First, there is no drug test documentation in the record. The sole source of the drug test result was the Appellant's disclosure at the LPD interview. As a result, there is no way of assessing the accuracy of the test result. The City doubted the Appellant's statements denying that he had used cocaine and his statements that he tested positive due to second-hand cocaine smoke exposure. However, I believe that the Appellant's reference to second-hand exposure to cocaine, and the article about such exposure that he included among his exhibits, indicate that he was searching for a reason to explain how he tested positive, given that, to him, it could not be possible that he willfully ingested cocaine. At the time of the positive test result the Appellant was in high school and enlisted in the military with his parents' assent and there is no indication in the record that the positive drug test result triggered any discipline. There is no suggestion that the Appellant used cocaine on any other occasion. For these reasons, I find the Appellant's denial that he used cocaine when he was sixteen (16) years old credible. Moreover, there is no indication in the record that the City has a policy or guideline for considering the date of a candidate's prior illicit drug use. Even if the Appellant had tested positive a decade before he applied to the LPD, given that seven (7) years of random drug testing in the military showed no positive drug test results, the Appellant's supposed one-time high school age use does not provide reasonable justification for bypassing the Appellant.

Failure to provide DD214

During submission of his application and related materials, Mr. Sawyer gave the City the DD214 he received upon his honorable discharge from the military. To the

extent the oral interview panel was concerned about the completeness of the DD214 provided, such concern was predicated upon its own lack of knowledge regarding Mr. Sawyer's periods of active and stateside service in the Army Reserves. Specifically, the Appellant first served in the Army Reserves, followed by active military duty. The City erroneously believed he had served on active duty continuously. As a result of that mistake, the City, through Detective Erickson, the background investigator of the applicants, asked Mr. Sawyer to obtain another DD214 from the National Archives. Mr. Sawyer promptly made the written request to the National Archives the *same day* that the Detective requested it. Through no fault of Mr. Sawyer, the latest DD214 was not received by the City until the day after the bypass decision was made. Nothing in the resubmitted DD214 documentation was inconsistent with the DD214 initially provided by Mr. Sawyer to the City.

Mr. Sawyer did exactly what the City requested of him with respect to the submission of the DD214 and he did so promptly. He cannot be faulted for the delay of the National Archives in providing another form, especially where that subsequently submitted form was not inconsistent with the DD214 initially submitted by Mr. Sawyer, which showed all his years of active and stateside service in the U.S. Army Reserves, noted the awards and ribbons awarded to him, and stated that he had been honorably discharged. Mr. Sawyer acted promptly, diligently, and in good faith to comply with the City's DD214 request. As a result, the City has not established by a preponderance of the evidence that the Appellant failed to submit his DD214 as alleged in the bypass letter sent to and approved by HRD.

Immaturity

After Mr. Sawyer's oral interview, the panel discussed Mr. Sawyer's apparently inappropriate laughter on occasion during the interview and attributed it not to nervousness but to immaturity. However, only one of the panel members noted this behavior in the interview notes.

In addition, as stated in the bypass letter, the panel members focused on the recommendation letter from Michael Ferrant, Sawyer's supervising sergeant for four years in the military, in which the word "immature" was used in quotation marks by Mr. Ferrant in describing Mr. Sawyer's personality, to buttress their conclusion. Mr. Ferrant testified that his use of the word "immature" in his reference letter was an inappropriate usage of that word since he meant to convey only that Mr. Sawyer had a sense of humor and the ability to instill camaraderie and relieve stress among his fellow soldiers. Mr. Ferrant apologized for the error and stated that he would not have assigned Mr. Sawyer to the weighty responsibility of being a large caliber gunner if he truly thought that Mr. Sawyer was "immature". I credit Mr. Ferrant's testimony as credible in view of his recognition of his mistake, his years of supervising the Appellant, and his work with him under the stresses of war. It is hard to imagine that someone who has served seven years successfully in the military is immature. Mr. Ferrant's testimony was also supported by the Appellant's credible testimony about his own maturity as reflected in his purchase of a home for his family at 23 years of age and his having taken full-time care of a paralyzed relative. Further, I credit the Appellant's testimony that he laughed on occasion at his interview for the LPD because he was nervous, not immature. The Appellant testified credibly that he arrived early for his interview and that a member of the LPD, who saw that the Appellant was nervous, suggested that the Appellant relax and show a bit of

personality during his interview. For these reasons, the City has not established by a preponderance of the evidence that Mr. Sawyer is immature.

In the future, should the City choose to rely on a poor interview performance to justify bypassing a candidate for a putatively more qualified lower-ranked one, it must ensure that the process is consistent with basic merit principles of civil service law. Some degree of subjectivity is inherent (and permissible) in any interview procedure but care must be taken to preserve a “level playing field” and “protect candidates from arbitrary action and undue subjectivity on the part of the interviewers”, which is the lynchpin to the basic merit principle of civil service law. *See e.g.*, Malloch v. Town of Hanover, 472 Mass. 783, 796-800 (2015); Flynn v. Civil Service Comm’n, 15 Mass.App.Ct. 206, 208, *rev.den.*, 388 Mass. 1105 (1983); Pilling v. City of Taunton, 32 MCSR 69 (2109); Conley v. New Bedford Police Dep’t, 29 MCSR 477 (2016); Dorney v. Wakefield Police Dep’t, 29 MCSR 405 (2016); Cardona v. City of Holyoke, 28 MCSR 365 (2015); Phillips v. City of Methuen, 28 MCSR 345 (2015); and Morris v. Braintree Police Dep’t, 27 MCSR 656 (2014).

The process followed here of note-taking, followed by group discussion to reach conclusions about which candidates continue in the hiring process, is problematic. It would be preferable for there to be objective criteria and separate, independent numerical scoring by each panel member of each candidate. Also, when, as here, the recollection of panelists differs as to the colloquy and demeanor of candidates, it would be helpful to have a recording of the interviews for the Commission’s review.

Conclusion

For all the reasons stated herein, Codey Sawyer's appeal under Docket No. G1-18-058 is hereby *allowed*.

Pursuant to its authority under Chapter 310 of the Acts of 1993, the Commission hereby orders that:

1. HRD shall place the name of the Appellant at the top of any future Certification for appointment as a Lowell Police Officer until the Appellant is appointed or bypassed.
2. The City shall not use the reasons deemed invalid in this decision in any future bypass.
3. Should the Appellant be appointed, he shall receive a retroactive civil service seniority date the same as those appointed from Certification No. 05088.

This civil service seniority is for civil service purposes only and shall not entitle the Appellant to any other pay or benefits, including creditable years toward retirement.

Civil Service Commission

/s/ Cynthia A. Ittleman
Cynthia A. Ittleman
Commissioner

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Tivnan, and Stein, Commissioners) on May 21, 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)(I), 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:

Codey Sawyer (Appellant)

Christine O'Connor, Esq. (for Respondent)

Michele Heffernan, Esq. (HRD)

Regina Caggiano (HRD)