

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street – Suite 200

Boston, MA 02114

617-979-1900

WILLIAM SCHLIEMAN,

Appellant

v.

HUMAN RESOURCES DIVISION,

Respondent

Docket number:

B2-24-195

Appearance for Appellant:

William Schlieman

Pro Se

Appearance for Respondent:

Erik Hammarlund, Esq.

Labor Counsel

Human Resources Division

100 Cambridge Street, Suite 600

Boston, MA 02114

Commissioner:

Paul M. Stein

SUMMARY OF DECISION

A majority of the Commission allowed the examination appeal of a Brockton Police Lieutenant, concluding that, under the specific facts of this case, the Appellant's time as a UMass Lowell police officer should be properly credited toward determining his eligibility for the statutory preference provided under G.L. c. 31, § 59 for completing 25 years of service as a full-time police officer.

DECISION ON MOTION FOR SUMMARY DECISION

On December 24, 2024, the Appellant, William Schlieman, a Lieutenant with the Brockton Police Department (BPD), appealed to the Civil Service Commission (Commission), pursuant to G.L. c. 31, § 24, from the decision of the state's Human Resources Division (HRD), to decline to add the statutory 2-point credit for 25 years of service as a regular police officer to his final score

on the Statewide Police Captain's promotional examination administered by HRD on September 21, 2024. The Commission held a remote pre-hearing conference on January 21, 2025, at which time HRD filed a Pre-Hearing Memorandum arguing that the Appellant's service as a UMass Lowell police officer did not qualify for the 2-point preference provided for under Section 59 of the civil service law and that the Appellant's appeal should be dismissed. Pursuant to a Procedural Order issued that date, the Appellant submitted supplemental information setting forth further details to support his contention that his service as a UMass Lowell police officer qualified as service as a "regular police officer" within the meaning of the Section 59 statutory preference. HRD was directed to review the Appellant's submissions and to file a motion to dismiss the appeal, with specific reference to the Appellant's supplemental submission, which I have deemed a Motion for Summary Decision. HRD filed no further response, and I presume it rested on its Pre-Hearing Memorandum. After carefully reviewing the parties' submissions, I conclude that the Appellant's service as UMass Lowell police officer should be counted as service as a "regular police officer" and that the Appellant is entitled to receive the statutory 2-point preference. Accordingly, the Appellant's Motion for Summary Decision is allowed.

UNDISPUTED FACTS

Based on the submission of the parties, the following facts are not disputed:

1. The Appellant, William Schlieman, has been employed as a permanent sworn police officer in the Brockton Police Department (BPD) since August 25, 2003. He has held the rank of BPD Police Lieutenant since June 15, 2020.
2. Prior to his employment with the BPD, the Appellant served as a permanent sworn police officer of the UMass Lowell Police Department (UMLPD). He began his service with the UMLPD

as a Police Officer on June 20, 1999. He was promoted to UMLPD Police Sergeant on December 8, 2002, and served in that position until August 24, 2003.

3. On September 21, 2024, the Appellant took and passed the 2024 Police Captain Examination administered by the state's Human Resources Division.

4. During the examination process, the Appellant claimed that he was entitled to the 2-point preference for 25-years of service as a regular police officer.

5. By letter dated December 16, 2024, HRD denied the Appellant's claim because "only municipal experience is eligible for 25-year preference. Campus experience does not qualify."

6. The Appellant's final rounded exam score on the 2024 Police Captain Examination as determined by HRD ranked the Appellant in sixth place on the eligible list for promotion to BPD Police Captain. If the Appellant were granted the 25-year preference, the additional two points would move him into third place, tied with three other candidates.

Appellant's Employment as a UMLPD Police Officer

7. UMass Lowell is one of five campuses in the University of Massachusetts system. It is a community of more than 15,000 students, staff and faculty located in Middlesex County within the City of Lowell (the fifth largest city in Massachusetts, having a population of more than 100,000).

8. The Appellant, as all UMLPD officers, was required to complete the same training academy administered by the Municipal Police Training Committee (MPTC) as sworn police officers employed by a regular municipal police force.

9. The UMLPD operates 24/7, 365 days a year, providing patrol, investigation, specialized and emergency response, as well as crime prevention and educational services.

10. As with any community of similar size, the UMLPD must work to prevent and respond to criminal activity and emergencies, with the additional responsibility of maintaining a safe campus where education and research can thrive, and where students, staff and faculty can achieve their goals free from the concerns of personal and campus safety.

11. As a UMLPD police officer and sergeant, the Appellant was expected to follow the department's "community policing" approach to public safety. This comprehensive way of thinking enables officers to be proactive, determining why problems happen and working on solutions rather than simply responding to each emergency. Community policing is developed through careful training of the UMLPD's officers, outreach programs, and problem-solving partnerships with faculty, staff and students, UMass Lowell's neighbors, and state and local government.

12. In addition to being sworn in as a UMLPD police officer, throughout his tenure as an UMLPD police officer and sergeant, the Appellant also was appointed as a Middlesex County Deputy Sheriff.¹ He asserts that, as a Deputy Sheriff, he had authority throughout Middlesex County to enforce, and did enforce traffic laws (not just university rules), issue citations and make arrests and bookings for criminal offenses, both misdemeanors and felonies, on and off campus.

13. While on duty, the Appellant wore a police uniform bearing a police badge and drove a marked police cruiser equipped with blue lights and a siren. He carried a firearm, OC spray, a baton and a police radio.

¹ According to information the Appellant obtained from UMLPD Deputy Chief Melissa Mullin, the longest serving current member of the UMLPD, the practice of serving concurrently as a sworn UMLPD police officer and a sworn Deputy Sheriff has been in place continuously since at least 1995.

APPLICABLE LEGAL STANDARD

A motion to dispose of an appeal, in whole or in part, via summary decision may be allowed by the Commission pursuant to 801 C.M.R. 1.01(7)(h) when, “viewing the evidence in the light most favorable to the non-moving party”, the undisputed material facts affirmatively demonstrate that the non-moving party has “no reasonable expectation” of prevailing on at least one “essential element of the case”. See, e.g., Milliken & Co. v. Duro Textiles LLC, 451 Mass. 547, 550 n.6 (2008); Maimonides School v. Coles, 71 Mass. App. Ct. 240, 249 (2008); Lydon v. Massachusetts Parole Bd., 18 MCSR 216 (2005). See also Mangino v. HRD, 27 MCSR 34 (2014) and cases cited (“The notion underlying the summary decision process in administrative proceedings parallels the civil practice under Mass.R.Civ.P.56, namely, when no genuine issues of material fact exist, the agency is not required to conduct a meaningless hearing.”); Morehouse v. Weymouth Fire Dep’t, 26 MCSR 176 (2013) (“a party may move for summary decision when . . . there is no genuine issue of fact relating to his or her claim or defense and the party is entitled to prevail as a matter of law.”)

ANALYSIS

Section 59 of Chapter 31 provides that “a member of a regular police force . . . who has served as such for twenty-five years and who passes an examination for promotional appointment in such force shall have preference in promotion equal to that provided to veterans under the civil service rules.” Id., ¶5² Entitlement to the preference is a matter of law. The statute must be construed to

² Pursuant to its rule-making authority under G.L. c. 31, §§ 3, 5, and 22, HRD promulgated Personnel Administration Rule PAR.14(2), which provides in relevant part:

“[T]he administrator [HRD] shall add two points to the general average mark obtained by any veteran. . . . A veteran who has also obtained twenty-five years of service shall not receive an additional two points” Personal Administration Rules, PAR.14(2).

effect the legislature’s intent, as disclosed by its ordinary and plain meaning. See, e.g., Ralph v. Civil Service Comm’n, 100 Mass. App. Ct. 199, 204-205 (2021).

The Appellant claims that his four years as a full-time UMLPD police officer and sergeant from 1999 through 2003 qualifies as the service of a “regular police officer” with a “regular police force” based on the commonality of the full police powers he exercised with the UMLPD to the authority and duties performed by police officers who are employed as regular police officers with most municipal police department of similar or even smaller size.

First, the UMass enabling statute then authorized UMass trustees to promulgate certain “rules and regulations” and to appoint as “police officers” persons employed by the university who “*in the enforcement of these rules and regulations and throughout university property shall have the powers of police officers*, except as to service of civil process.” G.L. c. 75, § 32A, as enacted by St.1962, c. 648, § 2 (*emphasis added*). If this were the only source of the Appellant’s authority, this statute, alone, would not suffice to establish that, at the time of his employment, service as a UMLPD police officer qualifies for credit under the Section 59 statutory preference, because the limited authority to enforce university rules is not equivalent to “full police powers.” See Ralph v. Human Resources Div., 32 MCSR 73 (2019), *aff’d sub nom. Ralph v. Civil Service Comm’n*, CA 196CV00397 (Worc. Sup. Ct. 2020), *aff’d on other grounds sub nom. Ralph v. Civil Service Comm’n*, 100 Mass. App. Ct. 199 (2021).³

³ In 2014, after the Appellant had left employment with UMLPD, Chapter 75, § 32A was amended to provide UMass campus police officers with full police powers on university property:

“Police officers appointed by the trustees of the University of Massachusetts, in connection with the operation of any part of the university within the limits of the campuses . . . shall have the same authority, immunities and privileges as duly appointed and qualified police officers acting elsewhere in the commonwealth.” (emphasis added)

Second, during his tenure as an UMLPD police officer and sergeant, the Appellant was a “special state police officer”, appointed under G.L. c. 22C, § 63, which provides:

“The colonel [of the Massachusetts State Police] may . . . at the request of an officer of a college, university, other educational institution or hospital . . . appoint employees of such college, university, other educational institution or hospital as special state police officers. Such special state police officers shall serve for three years, subject to removal by the colonel, and they shall have the same power to make arrests as regular police officers for any criminal offense committed in or upon lands or structures owned, used or occupied by such college, university, or other institution or hospital.” *Id.*, as enacted by St.1991, c. 412, §22. (*emphasis added*)

The Commission previously determined that, although a special state police officer has the same powers “as a regular police officer”, the above-quoted statutory provisions actually distinguish a “special state police officer” as someone other than a “regular police officer” within the statutory definition of G.L. c. 31, § 59, ¶5. See, e.g., DeFrancesco v. Human Resources Div., 21 MCSR 662 (2008), *aff’d sub nom.*, DeFrancesco v. Civil Service Comm’n, C.A. 2009-00392 (Middlesex Sup. 2009). See also Commonwealth v. Mullen, 40 Mass. App. Ct. 404, rev. den. 423 Mass. 1105 (1966) (state college campus police “special state police officer” did not have powers of a regular police officer and lacked authority to stop a motorist for a civil traffic violation). But see McCarthy v. Human Resources Division, 34 MCSR 241 (2021) (raising possible distinction between state university campus police and community college campus police); Arakelian v. Human Resources Div., 30 MCSR 253 (2017) (same).

Third, the Appellant claims that his appointment as a Middlesex Deputy Sheriff empowered him with the powers of a police officer both on and off campus. In Commonwealth v. Gernrich, 476 Mass. 249 (2017), the Supreme Judicial Court reversed the conviction for making a false report to a police officer, holding that, although it is true that “the common-law and statutory powers of deputy sheriffs and police officers are coextensive in certain respects”, a deputy sheriff

was not a “police officer” within the meaning of the statute proscribing false reports, G.L. c. 269, § 13A.

[W]e conclude that a deputy sheriff is not a police officer within the meaning of G. L. c. 269, § 13A. Unlike police officers as defined in G. L. c. 41, § 98, deputy sheriffs are not empowered to make warrantless arrests for crimes that occur outside of his or her view or presence. Under the common law, a deputy sheriff is considered a “peace officer.” Commonwealth v. Howe, 405 Mass. 332, 334, 540 N.E.2d 677 (1989). As a “peace officer,” a deputy sheriff has only limited authority to make warrantless arrests. See id. See also Commonwealth v. Baez, 42 Mass. App. Ct. 565, 569 n.6, 678 N.E.2d 1335 (1997) (collecting statutes granting deputy sheriffs authority to make arrests). More specifically, a deputy sheriff's warrantless arrest power is limited to offenses involving a breach of the peace that occur in the deputy sheriff's view or presence. [Citation] Given this limitation, the warrantless arrests made by deputy sheriffs are largely insulated from the risk of arresting an innocent person based on a false report.

We address briefly the Commonwealth's arguments that (1) because deputy sheriffs have general law enforcement powers, including the power to arrest, and because some perform criminal investigations in addition to their duties related to correctional institutions, a deputy sheriff is a police officer under G. L. c. 269, § 13A; and (2) the term “police officers” in § 13A should be interpreted broadly, as the Legislature has done in G. L. c. 90, § 1, and G. L. c. 90C, § 1.

First, although the Appeals Court has recognized that the common-law and statutory powers of deputy sheriffs and police officers are coextensive in certain respects, this proposition does not undermine our conclusion that deputy sheriffs are not police officers for the purposes of G.L. c. 269, § 13A. See, e.g., Sheriff of Middlesex Cty. v. International Bhd. of Correctional Officers, Local R1–193, 62 Mass. App. Ct. 830, 831–832, 821 N.E.2d 512 (2005) (collecting cases noting that deputy sheriffs have arrest authority in certain circumstances); Hollum v. Contributory Retirement Appeal Bd., 53 Mass. App. Ct. 220, 221, 757 N.E.2d 1126 (2001) (“Deputy sheriffs are police officers who may serve as civil and criminal process servers or who may serve in a formal law enforcement function at [a jail] and house of correction”). These cases assumed that deputy sheriffs perform certain police duties, but neither determined that sheriffs' and police officers' duties are one and the same.

Id., at 253-56.

After citing all of these separate sources of police powers, the Appellant concludes with a novel gestalt argument (contending that the whole is greater than the sum of the parts). He postulates that the totality of the three different sources of the authority for his work as a UMLPD police officer, taken together with the evidence of what his actual job duties entailed, must be considered

as a whole when determining whether his work as a UMLPD police officer and sergeant are equivalent to the work of a regular municipal police officer and should be counted as such service for purposes of the two-point preference for 25-years of service under Section 59. In particular, although his appointment as a “police officer” by the university trustees under G.L. c. 75, § 32A was, at the time, limited to enforcement of university traffic rules, the appointment under G.L. c. 22C, § 63 as a “special police officer” granted him the powers, if not the title, of a “regular police officer” within the confines of university property. When these powers are combined with the additional statutory and implied common law powers he was able to exercise, and did exercise, as a deputy sheriff, the Appellant makes a compelling argument that, as a whole, his powers and actual duties are virtually indistinguishable from (indeed, in terms of jurisdiction, exceed) the powers and duties of a full-time municipal police officer. The Appellant was MPTC trained. He carried all the indicia of a regular police officer and was trained in, and authorized to apply, both lethal (firearm) and non-lethal use of force. He issued traffic citations and made arrests both on and off the campus and the surrounding large urban metropolitan area in which the campus was located. Additionally, there can be little doubt that—functioning around the clock, 365 days a year; providing patrol, investigation, crime prevention, specialized and emergency response, and other services; and currently employing 30 sworn officers—the UMLPD is a regular police force. *See* <https://www.uml.edu/police/>.

I find the Appellant’s gestalt argument persuasive. In Ralph, the Appeals Court did not need to reach the issue whether UMass police department service must be counted for purposes of Section 59 because the Court found that, even if it did, Sgt. Ralph’s other experience did not get him to the 25 years of service. *See Ralph v. Civil Service Comm’n*, *supra*, 100 Mass. App. Ct. at

209, n.8.⁴ I am persuaded by the Appellant’s evidence that the Commission should not ignore the Appellant’s point that the real-time challenges that a campus police officer faces in the performance of his or her duties, as they have evolved, now are much closer to (and, at times, indistinguishable from) the job of the typical municipal police officer than they may once have been. See also *Arkelian v. Human Resources Div.*, *supra*. Finally, I am also mindful that, as noted above (footnote 2), the Legislature has taken action to recognize the responsibilities that the Appellant established the UMLPD had undertaken more than decade earlier, and has codified that the police departments of the five UMass campuses now are statutorily equivalent to a regular police department and, upon appointment by the university trustees, their officers are vested with all of the police powers of regular municipal police officers. See St. 2014, c. 172, §2 amending G.L. c. 75, §32A and adding §34B (authorizing all UMass campuses to enter into municipal mutual aid agreements). See also St. 2006, c. 134, §3A (mandating that campus police must now complete MPTC or State Police academy, annual in-service training and (if authorized to carry) MPTC firearm certification); St. 2004, c. 348, §2 (original mutual aid authority for UMass Amherst only).

Finally, the facts in this appeal are distinguishable and far more fully developed than was the case in *Ralph*, *supra*, both as to the Appellant’s status as a “regular police officer” as well as the evidence that the UMLPD operated as an equivalent to a “regular” municipal police force. The evidence of Sgt. Ralph’s employment at UMLPD consisted of a letter from an Administrative

⁴ In the underlying decision I authored for the Commission, I treated Sgt. Ralph’s claim to a 25-year promotional preference creditable time for short-term employment as a UMass Lowell campus police officer back in 1993 as a close call. In the complete absence of evidence regarding the actual duties of UMLPD officers back then and, of equal pertinence, the particulars of Sgt. Ralph’s service at the time, I undertook of necessity a formalistic survey of the statutory authority of campus police officers three decades ago. Here, by contrast (as discussed further below), the fuller factual evidence of the Appellant’s actual UMLPD service permits me to eschew an overly formalistic analysis.

Assistant at the UMass Lowell Human Resources Department attesting to “thirteen months employment as a full time Campus Police Officer at UMass Lowell.” Sgt. Ralph’s claim was also undermined by the facts that, during the same time he worked as UMass Lowell, he also claimed part-time employment with the Dedham Police Department (16-20 hours per week) and the Medfield Police Department (8 hours per week). No evidence was provided about the structure or operations of the UMLPD. See Ralph supra, 32 MCSR at 74-75. Accordingly, I find the Commission’s prior analysis in Ralph is not, and should not, be controlling here.

In this case, the Appellant provided detailed evidence, which HRD did not dispute, that he had been employed as a full-time police officer and sergeant for four years and that he was MPTC academy trained. He personally attested to the fact that his specific duties included all the indicia of a regular municipal police officer, including carrying a badge and a gun, and conducting arrests, bookings and other regular police duties. He also described the UMLPD as a department that was structured in the same manner as a regular municipal police force, with a Chief of Police, superior officers (of which he was one), and patrol officers that ran 24/7 every day of the year. As do most modern municipal police departments, the UMLPD complemented its law enforcement activities with “community policing” activities, including outreach programs and problem-solving partnerships with faculty, staff and students, UMass Lowell’s neighbors, and state and local government. The UMLPD serviced a community of 15,000 students, faculty and staff located in the midst of one of the most populous urban centers in the Commonwealth—considerably more constituents than many “regular municipal police departments” in this state.

In sum, in the absence of definitive controlling appellate precedent, I conclude that, on the specific facts presented by this appeal, the Appellant has made a persuasive argument that the totality of his work experience as a UMLPD police officer and sergeant (while concomitantly

serving as a deputy sheriff) establishes that he was a,done police officer with full police powers and that his service with the UMLPD should properly be included as service as a “regular police officer” employed by a “regular police force” within the meaning of the statutory preference set forth in G.L. c. 31, § 59, ¶5.

I emphasize that this decision is limited to the specific undisputed facts presented by the Appellant in the case. Future claims to statutory preferences will be considered on a case-by-case, fact-specific basis. Of course, it would be preferable, and might avoid further unnecessary appeals to the Commission, if HRD were amenable to revisiting its position on how it assesses full-time, fully-trained and empowered, sworn officers in campus police departments in terms of Section 59 preference claims, especially as to those employed by the five UMass campuses, who are now clearly included within the definition of “regular” police work.

CONCLUSION

For the reasons stated above, the Appellant’s Motion for Summary Decision is ***granted***, and the Appellant’s appeal under Docket Number B2-24-195 is ***allowed***. HRD is directed to recalculate the Appellant’s score on the 2024 Police Captain Examination by adding two points to his final examination score, and to adjust his standing on the current eligible list accordingly.

Civil Service Commission

/s/Paul M. Stein
Paul M. Stein
Commissioner

By a 3-2 vote of the Civil Service Commission (Bowman, Chair [NO]; – No; Dooley [YES], Commissioner – Yes; Markey [YES], Commissioner – Yes; McConney, Commissioner – No; [NO] and Stein [YES], Commissioner – Yes; on June 12, 2025.

Either party may file a motion for reconsideration within ten days of 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:

William Schlieman (Appellant)

Erik Hammarlund, Esq. (for Respondent)

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OPINION OF COMMISSIONERS BOWMAN AND McCONNEY

We support the well-reasoned conclusion of the majority that the UMASS Lowell Police Department should be considered a “regular police force” for the purposes of determining eligibility for the two points awarded to candidates with 25 years of service, but only in regard to service performed after a law change in 2014 which explicitly granted UMASS campus police officers the same authority as all other police officers in Massachusetts, including municipal officers.

For the same reasons that the Commission stated in Ralph, we do not believe that HRD’s determination to exclude such time *prior* to the 2014 law change was arbitrary or capricious and we don’t read anything in the majority’s decision here to sufficiently distinguish the instant appeal from the facts in Ralph to justify a different result.

For these reasons, we voted no.

CIVIL SERVICE COMMISSION

/s/ Christopher C. Bowman

/s/ Angela C. McConney

June 12, 2025