

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

KRYSTA SKRODZKI,

Appellant

v.

**TOWN OF WEST
SPRINGFIELD,**

Respondent

Case No.: G1-21-170

SUMMARY DECISION

On September 11, 2021, the Appellant, Krysta M. Skrodzki, filed an appeal with the Civil Service Commission (Commission) contesting the decision of the Town of West Springfield (Town) to bypass her for original appointment as a police officer in the Town's police department. Some 18 months earlier, on February 27, 2020, the Commission had issued a decision on an earlier bypass appeal granting the Appellant relief in the form of placement of her name at the top of any future certification for appointment as a Town police officer until such time as she was appointed or again bypassed.¹ Subsequently, the Town appointed two other police officer candidates who ranked below the Appellant on the certification issued in September of 2020. The Town had given the Appellant a conditional offer of employment that autumn but revoked the offer when the Town-appointed medical evaluator, Dr. Richard Brody, concluded that the Appellant suffered from a disqualifying medical condition.

¹ The Respondent Town originally had bypassed the Appellant in 2017 for reasons that included an allegedly poor interview performance due to the Appellant's lack of knowledge of criminal justice issues, plus her driving history. After a negotiated resolution that included the Appellant attending a reserve police academy at her own expense, the Town two years later invoked a statute prohibiting the certification for original appointment as a police officer of any individual, such as the Appellant, who had reached 32 years of age by an application deadline associated with the civil service examination on which the certification would be based. G.L. c. 31, § 58. As noted in text, the Commission then invoked, in February of 2020, when the Appellant was 34 years old, Chapter 310 of the Acts of 1993 to override, in effect, this statutory bar on the Appellant's further candidacy. *See* Decision on Motions in case no. G1-19-225 (February 27, 2020). That Decision, however, concluded as follows: "This relief does not guarantee that the Appellant will be appointed. Rather, it simply allows the Appellant to receive the consideration that she anticipated receiving after withdrawing her appeal from the Commission." *Id.* at 4.

Although the Appellant timely requested a medical re-examination within the sixteen-week period allowed for such, the Town contended that she failed to complete the re-examination process. According to a sworn affidavit from the new evaluator, Dr. Raymond F. Conway, the Appellant underwent certain components of the initial hire medical standards evaluation dictated by the Commonwealth's Human Resources Division (HRD) in April of 2021, but did not complete the re-examination because she did not return to Dr. Conway's offices for a required tuberculosis screening reading.² "In addition," stated Dr. Conway, "the [Appellant] did have a potential disqualification based on the standards outlined in [HRD's medical guidelines]."³

Section 61A of Chapter 31 of the General Laws mandates that "[i]f [a police officer candidate] fails to pass [a medical or physical fitness] reexamination" held "within 16 weeks of the date of the failure of the initial examination[. . .] his appointment shall be rescinded." Notwithstanding this provision, at a case status conference presided over by me, as the Commission's General Counsel, on January 12, 2022, both parties agreed to engage in good faith discussion, with the assistance of legal counsel from the Commonwealth's Human Resources Division and HRD's medical consultant, Dr. Arnold, to ascertain whether the Appellant's candidacy could be revived and her fitness to serve as a police officer be re-evaluated by an occupational physician other than Dr. Conway or Dr. Brody. During a subsequent status conference conducted on February 2, 2022, counsel for HRD opined that, given the substantial lapse of time since the Appellant had failed her initial and subsequent medical reexamination, the Town would need to extend, and the Appellant accept, a new conditional offer of employment based upon a new position vacancy. Counsel noted that, by this point in time, the names of fresh candidates other than the Appellant had appeared on the Town's current hiring certification.

In an email dated February 8, 2022, counsel for the Town notified the Appellant, the Commission, and counsel for HRD that a vacancy had unexpectedly arisen in the class of most recently hired police officers, which had yet to enroll in a full-time police academy. Town counsel wrote:

² The Town also submitted a signed sworn affidavit from a medical assistant working under Dr. Conway's supervision, Audrianna Codling, MA, which states that the Appellant was instructed to return to the doctor's office two to three days after she was administered a tuberculosis skin test for an assessment of test results "per protocol" and that Ms. Codling "vividly remembered [the Appellant] writing this information in her phone, because she told me she didn't want to forget." It is undisputed that the Appellant did not return for the skin test reading—but she claims that she had successfully undergone a similar test less than six months earlier and she had understood Dr. Conway's assistant to have relieved her of the duty to return for a more current reading in April of 2021.

³ Referencing HRD's Initial-Hire Medical Standards for Police Officers (Standards), it appears that Dr. Conway was concerned that the Appellant's condition of being reliant on certain prescribed medications classified in the Standards was "of sufficient severity, either from the condition or the treatment, to prevent the candidate from performing the essential functions of a police officer without posing a significant risk to the safety and health of . . . herself or others." On December 31, 2020, Dr. Brody certified that the Appellant failed the medical examination he had conducted on that basis.

With this change in circumstances, the Town would be willing to allow Ms. Skrodzki to continue on with the pre-employment process, contingent upon successful completion of all standard pre-employment requirements. If agreeable, [the Town] would accept the previous medical exam results, pending the second opinion by a mutually agreeable psychiatrist or psychologist, pursuant to HRD's process. If medically cleared, Ms. Skrodzki would then be required to complete the remaining pre-employment requirements, including the Physical Abilities Test ("PAT"), a psychological evaluation, and the Recruit Academy (ROC) Entry-Level Fitness Standards.

Based on discussion during the early February status conference, it was anticipated that counsel for HRD would work with the Appellant and the Town's counsel to complete the medical (re-) evaluation consistent with HRD guidelines. Unbeknownst to me (and possibly the parties), HRD's assigned attorney resigned her employment with the agency sometime in the following weeks and it appears this matter was never transferred internally. Neither party took any action to consummate a formal offer and acceptance of employment (however conditional).

When I became aware in early May of 2022 that the Appellant had made no response to the Town's February 8 settlement proposal, and HRD had taken no steps to facilitate an independent medical reevaluation, I corresponded with the parties via email in an effort to schedule another status conference on specified dates in mid-May 2022. Although counsel for the Town responded with her availability, the Appellant failed to identify dates on which she could make herself available. And the Appellant failed to respond at all to two subsequent follow-up emails from the Commission.

At this point, the Commission has exhausted its ability to exercise extraordinary relief pursuant to Chapter 310 of the Acts of 1993, the source of the Commission's equity powers.⁴ The Appellant's passivity or nonresponsiveness over the past year has led to a situation in which the Appellant is now five years older than the maximum age permissible for an entry-level police officer candidate in the Town of West Springfield. See G.L. c. 31, § 58. The conditional appointment extended to her in 2020 has been revoked by operation of G.L. c. 31, § 61A. She is no longer eligible to appear on a new certification due to her age and, as a result, is not statutorily eligible for a third medical evaluation opportunity. Section 61A explicitly states: "No person appointed to a permanent, temporary or intermittent, or reserve police or firefighter position after November [1996] shall perform the duties of such position until he shall have undergone initial medical and physical fitness examinations and shall have met such initial standards."

⁴ Chapter 310 of the Acts of 1993 states: "If the rights of any person acquired under the provisions of chapter thirty-one of the General Laws or any rule made thereunder have been prejudiced *through no fault of his own*, the civil service commission may take such action as will restore or protect such rights, notwithstanding the failure of any person to comply with any requirement of said chapter thirty-one or any such rule as a condition precedent to the restoration or protection of such rights." Id. (emphasis supplied).

For the foregoing reasons, I recommend that the Commission dismiss the Appellant's appeal under docket number G1-21-170.

Civil Service Commission

/s/ Robert L. Quinan, Jr., Esq.

Robert L. Quinan, Jr., Esq.

General Counsel

By a vote on March 9, 2023, the Civil Service Commission (Bowman, Chair; Dooley, McConney, Stein and Tivnan, Commissioners) dismissed the Appellant's appeal.

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:

Krysta M. Skrodzki (Appellant)

Kate R. O'Brien, Esq. (for Respondent)

Michele M. Heffernan, Esq. (for HRD)