

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

MARSHALL STILES,
Appellant
v.

Case No.: D-16-8

**DEPARTMENT OF
CORRECTION,**
Respondent

ORDER OF DISMISSAL¹

On January 19, 2016, the Appellant, Marshall Stiles (Mr. Stiles), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Department of Correction (DOC) to suspend him for one (1) day.

On February 2, 2016, I held a pre-hearing conference that was attended by Mr. Stiles and a representative for DOC.

Based on the documents submitted and the statements of the parties, it is undisputed that Mr. Stiles was notified of his one (1)-day suspension on January 13, 2016. The final sentence of the notification stated in relevant part: “You may appeal this finding within forty-eight (48) hours of receipt to the Appointing Authority, the Commissioner of Correction. I have attached a copy of M.G.L. c. 31 §§ 41 – 45 for your information.”

It is undisputed that Mr. Stiles did not request a hearing from the Commissioner of Correction, but, rather, submitted an appeal directly to the Commission.

Before filing an appeal with the Commission, individuals who are suspended for five (5) days or less must first request a hearing with the Appointing Authority and said request must be made within forty-eight (48) hours. G.L. c. 31, § 41. See also Hurley v. City of Lynn, 23 MCSR 252 (2010).

Since Mr. Stiles did not request a hearing before the Appointing Authority, the Commission lacks jurisdiction to hear this appeal. For this reason, Mr. Stiles’s appeal under Docket No. D-16-8 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

¹ The Commission acknowledges the assistance of Law Clerk Jaime Caprietta in drafting this decision.

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on February 18, 2016.

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)(1), 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:
Marshall Stiles (Appellant)
Joseph Santoro (for Respondent)