COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION No. 10-4464-F

Notice sent
12/27/2012
S. C. P.
L.,C.,C. & P.
I. J. A.

MICHAEL SUAREZ,
Plaintiff,
v.
CIVIL SERVICE COMMISSION and DEPARTMENT OF CORRECTION,
Defendants.

(sc)

December 24, 2012

MEMORANDUM AND ORDER

Before the Court is Plaintiff Michael Suarez's Motion For Judgment On The Pleadings. After a hearing and careful review of the parties' submissions, the Motion is denied for the reasons that follow.

The evidence in the record showed that Suarez failed to secure the cell door of the inmate responsible for a serious assault on another inmate. The evidence suggests that other prison staff were at least also responsible for (if not complicit in) the attack, but their culpability is irrelevant to the question of whether Suarez acted in derogation of his professional duties under Rule 12(a). The Court thus affirms the decision of the Civil Service Commission, even if the Court might justifiably have made a different choice had the matter been before it de novo. *Dotson v. Comm'r of Revenue*, 82 Mass. App. Ct. 378, 385 (2012).

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It therefore follows that the Motion For Judgment On The Pleadings is DENIED.

SO ORDERED, this 21st day of December, 2012.

Heidi E. Brieger
Justice of the Superior Court