

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

**CIVIL SERVICE COMMISSION**

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

STEPHEN M. THOMAS,  
Appellant

v.

G1-10-99

DEPARTMENT OF CORRECTION,  
Respondent

Appellant's Representative:

*Pro Se*  
Stephen M. Thomas

[REDACTED]

Respondent's Representative:

Kerry A. Rice  
Department of Correction  
Industries Drive: P.O. Box 946  
Norfolk, MA 02056

Commissioner:

Christopher C. Bowman

**DECISION ON RESPONDENT'S MOTION TO DISMISS**

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant Stephen M. Thomas (hereinafter "Thomas" or "Appellant"), filed an appeal against the Department of Correction<sup>1</sup> (hereinafter "DOC" or "Appointing Authority") regarding his departmental seniority date for such things as shift selection and "days-off" selection.

On May 27, 2010, DOC filed a Motion to Dismiss the Appellant's appeal. At the pre-hearing conference conducted at the offices of the Civil Service Commission (hereinafter "Commission") on June 29, 2010, both parties presented oral argument.

The Appellant began his employment with DOC on May 21, 1980 and he became a permanent Correction Officer I effective April 7, 1991.<sup>2</sup> On August 29, 2001, he received an accidental disability retirement. On July 9, 2009, DOC was notified by the State Board of Retirement that the Appellant had been approved to return to work. The Appellant's civil service seniority date remains April 7, 1991, the date on which he was first appointed a full-time permanent Correction Officer I.

The Appellant is disputing a departmental seniority date of March 26, 1997 that has been assigned to him for such things as shift-selection and days-off selection that is governed by a Memorandum of Understanding between DOC and the correction officers' union (MCOFU).

Nothing in the civil service law connects civil service seniority to the allocation of shift selection or days-off selection. Instead, the most common application of a civil service seniority date relates to layoffs as a result of budgetary cut-backs or reorganizations, "bumping rights" and rights of reemployment to vacant positions. (Dedham v. Dedham Police Assoc. 46 Mass. App. Ct. 418 (1999). See also Murray v. Department of Correction, CSC Case No. G-4162 (1999) ("The collective bargaining seniority date for bidding rights may be different from the civil service seniority date."); Setters v. Department of Correction, CSC Case No. D-05-369 (2006); Forgues v. Department of Correction, CSC Case No. G2-08-263 (2008) (Commission dismissed appeals where the Appellant was contesting his departmental seniority date for bidding job picks, transfers and shift assignments.)

This matter is outside the Commission's jurisdiction. For this reason, the Appellant's appeal filed under Docket No. G1-10-99 is hereby *dismissed*.

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<sup>1</sup> The state's Human Resources Division (HRD) has delegated civil service functions to the Department of

Civil Service Commission

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Christopher C. Bowman  
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, Stein and McDowell, Commissioners) on July 29, 2010.

A true record. Attest:

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Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of this decision. The motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice:

Stephen Thomas (Appellant)  
Kerry A. Rice (for Appointing Authority)  
John Marra, Esq. (HRD)

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Correction.

<sup>2</sup> See DOC Correspondence to the Commission dated July 1, 2010.