

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

**CIVIL SERVICE COMMISSION**

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

KOREY A. VERHAULT,  
Appellant

v.

G1-11-82

HUMAN RESOURCES  
DIVISION,  
Respondent

Appellant's Attorney:

John J. Greene, Esq.  
15 Foster Street  
Quincy, MA 02169

Respondent's Attorney:

Lindsey Boyle, Esq.  
Human Resources Division  
One Ashburton Place: Room 207  
Boston, MA 02108

Commissioner:

Christopher C. Bowman

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

The Appellant, Korey A. Verhault (hereinafter "Verhault" or "Appellant"), pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (hereinafter "Commission"), claiming that she was aggrieved by the state's Human Resources Division (hereinafter "HRD") failure to send her a Notice to Appear card from HRD. As a result, she was not considered for the position of Police Officer in the Boston Police department.

The Appellant filed her appeal on March 10, 2011. The parties appeared at the pre-hearing conference on April 12, 2011 at which time I heard oral argument. HRD subsequently filed a Motion to Dismiss. The Appellant did not file a reply.

The following facts appear not to be in dispute:

1. On March 18, 2009, the Appellant filed an online application for Examination Announcement 8434 for the open competitive Police Officer and State Trooper examination through the HRD website.
2. The Appellant entered her current mailing address as: 10 Linda Lane, Apt. 3-2, Dorchester, MA 02125.
3. On April 25, 2009, the Appellant took and passed Examination Announcement 8265 for a Police Officer position with the Boston Police Department.
4. The Appellant did not submit a Residency Preference Claim Form.
5. On March 3, 2010, the Boston Police Department sent a Civil Service Requisition (Form 13) to HRD's Civil Service Unit, requesting ten permanent full-time female Police Officers.
6. On March 16, 2010, HRD established an eligibility list from this examination.
7. On April 16, 2010, HRD issued Certification number 207159. The Appellant's name appeared on page thirteen of this Certification.
8. On or around April 16, 2010, HRD sent notification to the candidates of Certification 207159. HRD used the address provided by the candidates.
9. HRD sent the Appellant's Notice to Appear card to 10 Linda Lane. (Exhibit 2)

10. The Notice to Appear card informed candidates that they needed to inform the Appointing Authority whether or not they would be willing to accept the appointment.
11. HRD did not keep copies of the Notification Cards.
12. HRD does not have any record that the Appellant's Notification Card was returned as undeliverable.
13. The Appellant claimed that she did not receive the Notice to Appear card.
14. Information regarding the candidates' civil service status, including their appearance on a Certification, can be found on the Standings and Online Applicant Records Information System (SOARIS), maintained by HRD.
15. The HRD website provides information regarding the two methods of change of address request: (1) Candidates may do so via their SOARIS, or (2) The candidate may send a written change of address via letter or email to HRD's Civil Service Unit.
16. The Civil Service Unit does not accept address changes from civil service candidates by any other means.
17. The link "Address Change Request" is located in the Civil Service page of HRD's website. It states:

"You can now change your address and personal information on-line using the Standings and Online Applicant Record Information System, menu option 4. [SOARIS] *It is the responsibility of an applicant to ensure that his/her contact information is current and accurate.* This information is used to notify candidates about civil service activities, including potential appointment opportunities." *(emphasis added)* (Exhibit 7)
18. Before April 16, 2010, the Appellant did not change her address via SOARIS, nor did she send HRD a written change of address

19. The Appellant' SOARIS activity shows that she logged into her SOARIS account on February 17, 2010, April 29, 2010, February 28, 2011 and March 1, 2011.
20. On March 2, 2011, the Appellant changed the address on her online application from 10 Linda Lane to 88 Walnut Street, Apt. 2, Dorchester, MA 02122.
21. On March 8, 2011, the Appellant filed an appeal with the Commission, contesting that she was not notified of her eligibility on Certification 207159.
22. The Appellant was not able to show when she moved from 10 Linda Lane to 88 Walnut Street.

## CONCLUSION

Under G.L. c. 31, § 2(b), the Commission has the power and duty to:

“[H]ear and decide appeals by a person aggrieved by any decision, action, or failure to act by [HRD], except as limited by the provisions of section twenty-four relating to the grading of examinations; provided that no decision or action of the administrator shall be reversed or modified nor shall any action be ordered in the case of a failure of the administrator to act, except by an affirmative vote of at least three members of the commission, and in each such case the commission shall state in the minutes of its proceedings the specific reasons for its decision.

No person shall be deemed to be aggrieved under the provisions of this section unless such person has made specific allegations in writing that a decision, action, or failure to act on the part of the administrator *was in violation of this chapter, the rules or basic merit principles promulgated thereunder* and said allegations shall show that such person's rights were abridged, denied, or prejudiced in such a manner as to cause actual harm to the person's employment status.” (*emphasis added*)

St. 1993, c. 310 provides:

“If the rights of any person acquired under the provision of chapter thirty-one of the General Laws or under any rule made thereunder have been prejudiced *through no fault of their 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 of such rights.” (*emphasis added*)

801 CMR 1.01 (7) (g) (3) states:

“The Presiding Officer may at any time, on his own motion or that of a Party, dismiss a case for lack of jurisdiction to decide the matter, for failure of the Petitioner to state a claim upon which relief can be granted or because of the pendency of a prior, related action in any tribunal that should first be decided.”

On March 18, 2009, the Appellant entered her current mailing address as 10 Linda Lane, Apt. 3-2, Dorchester, MA 02125 in her online application for the 2009 open competitive Police Officer and State Trooper examination via the HRD website. From March 18, 2009 until March 2, 2011, the Appellant failed to provide HRD with an updated address. When HRD mailed the Notice to Appear cards for Certification 207159, it sent the Appellant’s to 10 Linda Lane on April 16, 2010.

The Appellant was not able to show when she moved from 10 Linda Lane to 88 Walnut Street. It is reasonable to infer that the Appellant moved to 88 Walnut Street before the certification date of April 16, 2010 because HRD has no record that the Notice to Appear card sent to the Appellant was returned as undeliverable.

The Appellant has no reasonable expectation of prevailing on any element of this case. HRD did not violate the civil service law or rules or basic merit principles. It was by her own fault that the Appellant did not receive Notice to Appear card from HRD. The Appellant bears the responsibility, not HRD, to ensure that contact information is current and accurate. She failed in this regard.

Although the Appellant changed the address on her online application from Linda Lane to 88 Walnut Street, Apt. 2, Dorchester, MA 02122 via SOARIS on March 2, 2011, it was almost one year after her name had appeared on Certification 207159. When the Appellant logged into her SOARIS account on February 17, 2010 and April 29, 2010 to

check her status, she could have changed her address at the same time. She chose not to do so.

For all of the above reasons, the Appellant's appeal under Docket No. G1-11-82 is hereby *dismissed*.

Civil Service Commission

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Christopher C. Bowman  
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, McDowell and Stein, Commissioners) on July 14, 2011.

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 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.

Notice to:  
John J. Greene, Esq. (for Appellant)  
Lindsey Boyle, Esq. (for HRD)