

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

CIVIL SERVICE COMMISSION  
One Ashburton Place – Room 503  
Boston, MA 02108

VERONICA VILA,  
Appellant

v.

G1-18-122

SPRINGFIELD POLICE DEPARTMENT,  
Respondent

Appearance for Appellant:

Steven Weiner, Esq.  
930 Main Street  
Springfield, MA 01103

Appearance for Respondent:

Talia K. Gee, Esq.  
City of Springfield  
36 Court Street, Room 5  
Springfield, MA 01103

Commissioner:

Christopher C. Bowman

**DECISION**

On July 5, 2018, the Appellant, Veronica Vila (Ms. Vila), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Springfield Police Department (SPD) to bypass her for appointment as a permanent, full-time police officer. A pre-hearing was held at the Springfield State Building in Springfield, MA on August 8, 2018 and a full hearing was held at the same location on October 24, 2018.<sup>1</sup> The full hearing was digitally-recorded and both parties received a CD of the recording.<sup>2</sup> The SPD submitted a post-hearing brief on December 21, 2018. The Appellant did not submit a post-hearing brief.

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<sup>1</sup> The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR ss. 1.00, *et seq.*, apply to adjudications before the Commission with G.L. c. 31 or any Commission rules taking precedence.

<sup>2</sup> If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that he/she wishes to challenge the decision as unsupported by the

## **FINDINGS OF FACT**

Nine (9) exhibits were entered into evidence (Respondent Exhibits 1-6 (R1 – R6) and Appellant Exhibits 1-3 (A1 – A3)). Based on these exhibits and the testimony of the following witnesses:

*Called by the SPD:*

- Lynn Vedovelli, Human Resources / Payroll Manager; SPD;

*Called by Ms. Vila:*

- Veronica Vila, Appellant;

and taking administrative notice of all matters filed in the case; pertinent statutes, case law, regulations, rules, and policies; and reasonable inferences from the credible evidence; a preponderance of the evidence establishes the following facts:

*Ms. Vila*

1. Ms. Vila is a twenty-nine (29) year-old black female with three (3) children who was born and raised in Springfield, MA. She has an Associate's degree in criminal justice and is working toward obtaining her Bachelor's degree. She is currently employed as a paraprofessional in a local school department. (Testimony of Ms. Vila and Exhibit A3)

*2018 Hiring Process*

2. On March 25, 2017, Ms. Vila took the civil service examination for police officer and received a score of 96. (Stipulated Fact)
3. On January 19, 2018, the SPD received Certification No. 04971 from the state's Human Resources Division (HRD), from which the SPD eventually appointed thirty-two (32) candidates as permanent, full-time police officers. (Stipulated Fact)
4. Ms. Vila was ranked twenty-seventh (27<sup>th</sup>) on Certification No. 04971 (Stipulated Fact)

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substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, this CD should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

5. On February 14, 2018, the SPD provided HRD with reasons for the proposed bypass of Ms. Vila.<sup>3</sup> (Stipulated Fact)
6. The SPD's stated reasons for bypassing Ms. Vila were: 1) work history; 2) driving history; and 3) a pattern of inappropriate behavior. (Exhibit R1)
7. On June 7, 2018, HRD approved the reasons for bypass. (Stipulated Fact)

#### *Employment History*

8. The SPD's bypass letter states: "Candidate was employed at the [CT] Department of Corrections from 6/2014 through 01/2017. During the interview candidate stated that she failed to return back to work after a leave. Question 16 of the registration packet asks: 'Have you ever walked off a job without notice?' Candidate answered No." (Exhibit R1)
9. The background investigator's report regarding Ms. Vila stated:  
  
"Spoke with several co workers from past and present employments. They all spoke highly of her, worked well with others and were (sic) always on time. Then I spoke with Ms. Vila about why she left the Department of Corrections. She stated that she was pregnant and also her 2<sup>nd</sup> born child [had medical issues]. While working double shifts and taking her daughter to her appointments was a lil (sic) too much. She was a single mom and wasn't able to do it all so she decided to take care of her daughter.

I did speak with [an employee] from the Department of Corrections. She stated that Ms. Vila never gave her 2 weeks notice after her leave with FMLA. As a matter of fact she just never showed back up at all. Then when they gave her a time frame on when to return. This is when she gave her resignation." (Exhibit A1)

#### *Driving History*

10. The SPD's bypass letter states: "Poor Driving Record (Attachment H)." (Exhibit R1)
11. Prior to the full hearing, Ms. Vila obtained a true and attested copy of her driving record. It shows the following violations for which she was found responsible in the (5)-year period preceding this hiring cycle: Speeding (2016); Speeding (2015); Speeding (2014); Child

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<sup>3</sup> As a consent decree community, Springfield must provide HRD with reasons for bypass. Since 2009, HRD delegated that responsibility to all non-consent decree communities.

without seatbelt (2013). This record also shows that Ms. Vila's license was suspended once in 2007 and reinstated in 2008. (Exhibit A2)

*Pattern of inappropriate behavior*

12. The SPD's bypass letter references seven (7) police incident reports from 2013 to 2018 in which Ms. Vila was alleged to have engaged in criminal conduct, including two (2) incidents in which she was alleged to have violated the terms of a harassment prevention order that had been placed against her. (Exhibit R1)

*Legal Standard*

The fundamental purpose of the civil service system is to guard against political considerations, favoritism, and bias in governmental hiring and promotion. The commission is charged with ensuring that the system operates on "[b]asic merit principles." Massachusetts Assn..Of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 259 (2001), citing Cambridge v. Civil Serv. Comm'n., 43 Mass.App.Ct. 300, 304 (1997).

"Basic merit principles", means:

“(a) recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills including open consideration of qualified applicants for initial appointment; (b) providing of equitable and adequate compensation for all employees; (c) providing of training and development for employees, as needed, to assure the advancement and high quality performance of such employees; (d) retaining of employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected; (e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, sex, marital status, handicap, or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and; (f) assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.” G.L. c. 31, § 1.

Personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Civil Service Commission to act. Cambridge at 304. The issue for the Commission is “not whether it would

have acted as the appointing authority had acted, but whether, on the facts found by the commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the Appointing Authority made its decision. Watertown v. Arria, 16 Mass.App.Ct. 331, 332 (1983). See, Commissioners of Civil Service v. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster v. Stratton, 58 Mass.App.Ct. 726, 727-728 (2003).

The Commission's role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority's actions. City of Beverly v. Civil Service Comm'n, 78 Mass.App.Ct. 182, 189, 190-191 (2010) citing Falmouth v. Civil Service Comm'n, 447 Mass. 824-826 (2006), and ensuring that the appointing authority conducted an "impartial and reasonably thorough review" of the applicant. The Commission owes "substantial deference" to the appointing authority's exercise of judgment in determining whether there was "reasonable justification" shown. Beverly citing Cambridge at 305, and cases cited. "It is not for the Commission to assume the role of super appointing agency, and to revise those employment determinations with which the Commission may disagree." Town of Burlington v. McCarthy, 60 Mass.App.Ct. 914, 915 (2004).

### *Analysis*

Two (2) of the three (3) reasons for bypass here provided the Springfield Police Department with reasonable justification to bypass Ms. Vila for the position of permanent, full-time police officer.

The SPD did not show that Ms. Vila's employment history was a valid reason for bypass. The SPD appears to have erroneously concluded that Ms. Vila walked off the job and failed to appear without giving her employer (CT DOC) proper notice. The facts show something different. Ms. Vila was a good employee. When her child encountered serious medical issues,

she took FMLA and was ultimately unable to return to her employment. The background investigator received positive references from Ms. Vila's supervisors and co-workers and, when put in the proper context, her failure to return to her employment at DOC, does not provide a valid reason for bypass.

Based on the testimony, it appears that the SPD mis-read Ms. Vila's driving record and may have erroneously concluded that her license was suspended on multiple occasions. It was not. Ms. Vila was, however, found responsible for speeding on three (3) occasions in the five (5) years immediately preceding this hiring process in addition to being found responsible for failure to secure a child in a car seat. These are legitimate concerns for any candidate seeking to become a police officer and drive a City-owned police cruiser.

I reviewed the multiple police incident reports and carefully reviewed Ms. Vila's testimony regarding the underlying incidents referenced in those reports. At a minimum, Ms. Vila appears to acknowledge that she violated a harassment prevention order that was placed against her. Further, some of the explanations that Ms. Vila offered regarding the allegations contained in other incident reports were inconsistent and not plausible. Most of these events occurred within the five (5)-year period immediately preceding this hiring cycle.

The recent driving infractions, the recent police incident reports, and the acknowledgment by Ms. Vila that she violated a harassment prevention order, taken together, provided the SPD with reasonable justification to bypass her for appointment to the position of permanent, full-time police officer.

### *Conclusion*

Ms. Vila's appeal under Docket No. G1-18-122 is hereby *denied*.

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman  
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on May 23, 2019.

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:

Veronica Vila (Appellant)  
Steven Weiner, Esq. (for Appellant)  
Talia Gee, Esq. (for Respondent)