

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503

Boston, MA 02108

(617) 979-1900

JONATHAN W. WALLACE,
Appellant

v.

G1-20-062

TOWN OF SAUGUS,
Respondent

Appearance for Appellant:

Pro Se
Jonathan W. Wallace

Appearance for Respondent:

Raymond P. Ausrotas, Esq.
Arrowood LLP
10 Post Office Square
7th Floor South
Boston, MA 02109

Commissioner:

Christopher C. Bowman

CLARIFICATION OF COMMISSION DECISION

On July 28, 2022, the Commission issued a decision allowing the bypass appeal in Jonathan Wallace v. Town of Saugus, CSC Case No. G1-20-062. The decision was sent to the parties via email, including to Attorney John Vasapolli, who filed a notice of appearance for the Town with the Commission on May 6, 2021, after the full hearing in this matter had been conducted.

The relief ordered in the July 28, 2022 decision required that:

“1. A copy of this decision shall be placed in the Appellant’s personnel file. If and when the Town, or any agent thereof, is contacted by potential employers regarding the reasons for bypassing the Appellant, the Town shall provide the potential employer with a copy of this Commission decision.

2. HRD shall place the name of the Appellant at the top of any current or future certification issued to the Town of Saugus for the appointment of permanent, full-time firefighter until he is appointed or bypassed.

3. In any future consideration of the Appellant, the Town shall not bypass him as a result of any facts or circumstances of which it had knowledge prior to this most recent decision to bypass him. Chief Newbury shall recuse himself from consideration of any future application for employment by the Appellant.

4. No appointment to firefighter of any candidate ranked below the Appellant shall become effective until such time as: a) the Town has provided the Appellant with reasons for bypass; b) the Appellant has had the opportunity to file an appeal with the Commission; and c) the Commission has issued a final decision related to the bypass.

5. If the Appellant is appointed as a firefighter, he shall receive a retroactive civil service seniority date the same as those appointed from Certification No. 05324.” (emphasis added)

On August 30, 2022, as part of a pre-hearing conference regarding another matter, the Commission learned that: a) HRD issued Certification No. 08310 to the Town of Saugus on January 31, 2022 from which the Town sought to appoint firefighters; b) As of the date of the pre-hearing (August 30th), that Certification was still active and the Town had not yet made any final appointments from the certification, as it was waiting to schedule those candidates who had been granted a conditional offer of employment for a Physical Abilities Test (PAT).

Despite the issuance of the Commission’s July 28, 2022 decision, ordering that Mr. Wallace’s name be placed at the top of any **current** or future certification for firefighter, the Town did not consider Mr. Wallace for appointment as part of Certification No. 08310. To ensure compliance with the Commission’s July 28, 2022 order, I held a status conference with Mr. Wallace, counsel for the Town and counsel for HRD. (Attorney Raymond Ausrotas, who appeared before the Commission on August 30th, has now filed a notice of appearance for the Town in regard to the Wallace v. Saugus matter.) As part of the status conference, the Town stated that six candidates had been granted a conditional offer of employment from Certification No. 08310, including one candidate who is currently on active military duty.

In order to ensure that the Appellant, forthwith, receives the relief ordered by the Commission, while preventing any adverse impact on other candidates who have received a conditional offer of employment, the parties agreed to the following clarification of the Commission's order, which is hereby ordered, with the clarifications highlighted in red:

1. A copy of [the Commission's initial] decision shall be placed in the Appellant's personnel file. If and when the Town, or any agent thereof, is contacted by potential employers regarding the reasons for bypassing the Appellant, the Town shall provide the potential employer with a copy of this Commission decision.
2. The name of the Appellant shall, forthwith, be placed at the top of Certification No. 08310 to ensure that the Appellant receives immediate consideration for appointment.
3. [As part of the above-referenced consideration], the Town shall not bypass him as a result of any facts or circumstances of which it had knowledge prior to this most recent decision to bypass him. Chief Newbury shall recuse himself from consideration of [this] application for employment by the Appellant.
4. In the event that the Appellant is bypassed for appointment, the appointment of the lowest-ranked candidate of the six granted conditional offers of appointment shall be deemed a temporary appointment, until such time as the Appellant has had the opportunity to file an appeal with the Commission and the Commission has issued a final decision related to the bypass. Nothing in this decision prevents the Town from creating a 7th vacancy for permanent, full-time firefighter.
5. If the Appellant is appointed as a firefighter, he shall receive a retroactive civil service seniority date the same as those appointed from Certification No. 05324.

Civil Service Commission

Christopher C. Bowman
Christopher C. Bowman
Chair

By a vote of the Civil Service Commission (Bowman, Chair; Stein and Tivnan, Commissioners) on September 8, 2022.

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 the 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:

Jonathan W. Wallace (Appellant)

Raymond P. Ausrotas, Esq. (for Respondent)

Emily Sabo, Esq. (HRD)

Regina Caggiano (HRD)