

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114
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ADAM WATT,
Appellant

v.

BOSTON POLICE DEPARTMENT,
Respondent

Docket Number: G1-24-088

Appearance for Appellant: Galen Gilbert, Esq.
92 State Street, Suite 705
Boston, MA 02109

Appearance for Respondent: Joseph McClellan, Esq.
Boston Police Department
Office of the Legal Advisor
One Schroeder Plaza
Boston, MA 02120

Commissioner: Angela C. McConney

SUMMARY OF DECISION

The Commission affirmed the decision of the Boston Police Department to bypass a candidate for police officer based on his poor driving record, including two separate operating under the influence charges.

DECISION

Pursuant to G.L. c. 31, § 2(b), the Appellant, Adam Watt (Mr. Watt or Appellant), appealed to the Civil Service Commission (Commission) the June 4, 2024 decision of the Boston Police Department (Department), to bypass him for original appointment to the position of police officer in the Department. The Department based its decision on Mr. Watt's judgment and poor driving record, including two separate operating under the influence (OUI) charges.

The Commission held a pre-hearing conference on July 23, 2024 via remote videoconference. On September 18, 2024, I conducted an evidentiary hearing at the offices of the Commission, located at 100 Cambridge Street, Boston.¹ I recorded the hearing via the Webex platform, and forwarded a link to both parties.² I left the record open until October 3, 2024 in order for the Appellant to review the Department's discovery responses (redacted driving records of admitted applicants) and to submit additional exhibits based on that review. The parties filed post hearing briefs in October 2024, whereupon the administrative record closed.

FINDINGS OF FACT

At hearing, I admitted one exhibit from the Appellant (A. Exhibit 1). I admitted eight exhibits from the Respondent (R. Exhibits 1-8). I admitted the Stipulation of Facts as Joint Exhibit 1 (J. Exhibit 1). I later admitted the Department's *Exclusions and Timeframe Guidelines* as A. Exhibit 2, and the PCM of an admitted candidate as R. Exhibit 9.

Based upon the documents entered into evidence and the testimony of:

Called by the Department:

- Natasha Levarity, Director of Human Resources, Boston Police Department
- Sgt. Nicholas Onishuk, Recruit Investigations Unit, Boston Police Department

Called by the Appellant:

- Adam Watt, Appellant

and taking administrative notice of all pleadings filed in this case, plus pertinent rules, statutes,

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. §§ 1.01 et seq. (Formal Rules) apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

² Should there be 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 they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, the plaintiff in the judicial appeal must transcribe the transcript from the Commission's official recording.

regulations, case law and policies, and drawing reasonable inferences from the credible evidence, I make the following findings of fact:

1. Mr. Watt is a resident of the City of Boston. (R. Exhibit 2)
2. Mr. Watt holds a Bachelor of Arts degree. (R. Exhibit 7)
3. Mr. Watt took the civil service examination in 2021 for the position of permanent full-time Boston police officer. (R. Exhibit 7)
4. The Recruit Investigations Unit (RIU) assigned Sgt. Nicholas Onishuk, then a detective, as Mr. Watt's background investigator. The background investigation included Mr. Watt's criminal history, driving history, employment history, education, and personal references. Sgt. Onishuk compiled his report and presented his findings in a Privileged and Confidential Memorandum (PCM) to the roundtable on December 2, 2021. (R. Exhibit 2; Testimony of Sgt. Onishuk)
5. Mr. Watt's driving history documented two operating under the influence (OUI) charges. Mr. Watt was first charged with OUI and negligent operation of a motor vehicle in 2005. On July 10, 2005, two operators called the police based on his "erratic operation" of a motor vehicle on Route 6. When a state trooper pulled over Mr. Watt, he detected a strong odor of alcohol. The trooper conducted field sobriety tests, and Mr. Watt's breathalyzer test showed a blood alcohol content (BAC) of .07/.15/.07. (R. Exhibits 2, 3 and 6)
6. Mr. Watt was charged with OUI, negligent operation of a motor vehicle and received a marked lanes violation. On August 25, 2005, the court dismissed the OUI charge, gave Mr. Watt a one-year CWOFF on the negligent operation charge and found him responsible for the marked lane violation. (R. Exhibits 2, 3 and 6)
7. Mr. Watt was charged with OUI a second time in 2016. On September 5, 2016,

after an operator called the police based on Mr. Watt's "erratic operation" of a motor vehicle on Route 25, the State Police pulled Mr. Watt over. Mr. Watt had been operating at 80 mph in a 65 mph zone. Due to his glossy eyes, slurred speech, and odor of alcohol, the officer conducted a field sobriety test. Mr. Watt's breathalyzer showed a BAC of .174/.079/.174. (R. Exhibits 2, 4 and 6; Testimony of Onishuk)

8. On March 16, 2017, the court dismissed Mr. Watt's negligent operation charge. The court issued a one-year CWOFF with the requirement that Mr. Watt take an alcohol class. (R. Exhibits 2, 6 and 8)

9. In addition to the aforementioned OUI charges, Mr. Watt's driving history showed that from 2004 to 2020, he received thirty-three motor vehicle citations, and was found responsible for sixteen violations. (R. Exhibit 2; Testimony of Onishuk)

10. Mr. Watt's driver's license was suspended twice: for failure to pay costs and fines in 2013, and for the 2016 OUI. (R. Exhibits 2 and 5)

11. Mr. Watt received a violation in 2017 for Operation of a Motor Vehicle with License Suspended, for which the finding was Not Processed. (R. Exhibits 2 and 5)

12. Several of Mr. Watt's violations were repeat violations, including:

- responsible for one violation of speeding (5/10/2013);
- responsible for eight violations for failure to wear a seatbelt (1/19/2006; 2/7/2007; 2/14/2007; 7/19/2007; 5/18/2009; 6/21/2010; 7/9/2010; 12/9/2010; 5/10/2013);
- responsible for two violations for unregistered motor vehicle (6/20/2011; 7/1/2011); and
- responsible for one violation for registration not in possession (3/31/2006).

(R. Exhibits 2 and 5; Testimony of Levarity, Testimony of Onishuk)

13. Due to his driving history, Mr. Watt was required to complete two separate "Three Sanction Events" courses, each of which consisted of eight hours of driver retraining

classes. His first course was completed in September 2012. His second course was completed in August 2013. (R. Exhibit 2)

14. The roundtable voted to bypass Mr. Watt in the 2021 hiring cycle. Mr. Watt appealed that bypass to the Commission, but later withdrew his appeal. *Watt v. Boston Police Dep't*, Docket No. G1-22-128 (2022). (R. Exhibits 2, 4 and 6)

Current Hiring Cycle and Bypass

15. Mr. Watt took the civil service examination again on March 20, 2023.
(Stipulated Facts)

16. On June 22, 2023, the state's Human Resources Division (HRD) established an eligible list of candidates for the position of permanent full-time Boston police officer. On August 11, 2023, HRD issued Certification No. 09948, from which the Department could appoint one hundred and sixty-three (163) vacancies. (Stipulated Facts)

17. Mr. Watt ranked 75th on the certification. (R. Exhibit 2)

18. In October 2023, Mr. Watt submitted another Recruit Officer Application (Application) to the Department. (R. Exhibit 7; Testimony of Appellant)

19. Although he remained unemployed in October 2023, Mr. Watt wrote within the 2023 Application that he had recently secured employment as a Business Sales Rep-Solutions Advisor, and was partaking in onboarding training. (R. Exhibits 2 and 7)

20. The RIU assigned Det. Craig Wozniak to conduct Mr. Watt's background investigation for the 2023 hiring cycle. Det. Wozniak reviewed and updated Det. Onishuk's earlier PCM of Mr. Watt. (R. Exhibit 2; Testimony of Onishuk).

21. Mr. Watt received additional violations in the time period between his 2020 and 2023 applications to the Department. He was found not responsible for a March 10, 2020

crosswalk violation and a September 27, 2020 failure to stop/yield. On June 26, 2022, Mr. Watt received a warning for a crosswalk violation. Mr. Watt received a citation for a breakdown lane violation on September 21, 2023; he testified that the violation was dismissed because he was in the breakdown lane due to a power steering issue. (R. Exhibits 2 and 5; Testimony of Onishuk, Testimony of Appellant)

22. The Department convened a roundtable with representatives from Human Resources³, the Legal Department, and Internal Affairs to review Mr. Watt's second application. Det. Wozniak reviewed and updated Det. Onishuk's 2021 PCM and presented it to the roundtable. (R. Exhibit 2; Testimony of Levarity)

23. After Det. Wozniak's presentation and departure, the roundtable deliberated. (R. Exhibit 1; Testimony of Levarity)

24. The roundtable had further questions about Mr. Watt's OUIs, and asked Det. Wozniak to schedule a discretionary interview. (R. Exhibits 2-6; Testimony of Levarity Testimony of Onishuk)

25. Det. Wozniak scheduled an October 24, 2023 discretionary interview. (R. Exhibits 2 and 8; Testimony of Levarity)

26. At the discretionary interview, Mr. Watt was forthcoming about the conduct leading to the 2005 and 2016 OUIs. He took full responsibility for his actions, he was apologetic, and he acknowledged the danger that operating a motor vehicle can cause to himself or others. He divulged that his 2016 OUI arrest occurred on the night of his brother's wedding, and instead of spending the night with family in the hotel, he chose to drive. Mr. Watt denied having a

³ Ms. Levarity was not a participant in the 2023 roundtable; she had not yet assumed the position of HR Director. During the evidentiary hearing, she presented the findings of her predecessor. (Testimony of Levarity)

drinking problem, said that he does not drink and drive at all now, and that he currently drinks about “once or twice a year.” He also stated, “I made the mistake twice,” and “I know that with three strikes you are out,” and emphasized that he would not repeat the conduct. (R. Exhibits 2 and 8)

27. Det. Wozniak reported his new findings to the roundtable. (R. Exhibit 2)

28. At the time of Mr. Watt’s 2023 roundtable, the Department’s *Exclusions and Timeframe Guideline* policy, adopted on October 1, 2022, was in effect. Pursuant to this policy, candidates with an OUI within the seven years of application were automatically barred and could not be considered for employment (with a caveat for a not guilty finding). Beyond the seven-year lookback, the Department will engage its discretion, considering the OUI in the totality of the candidate’s application. (A. Exhibit 1; Testimony of Levarity)

29. The *Exclusions and Timeframe Guideline* policy is applied to candidates in a uniform manner during roundtable reviews. (A. Exhibit 1; Testimony of Levarity)

30. The roundtable concluded that Mr. Watt’s driving history reflected negatively on his ability to safely operate a police cruiser, which is an essential function of the position. (Testimony of Levarity)

31. The Department notified Mr. Watt of his bypass in a June 4, 2024 notice enclosing his appeal rights. The notice stated:

As detailed herein, the Boston Police Department has significant concern with your driving history and judgment.

After a completion of your background investigation, you were found to have been arrested for an OUI twice, once in 2005 and once in 2016. Additionally, from 2004 to 2020 you have received multiple motor vehicle citations for various violations. They are as follows:

- Not responsible for 8 violations such as: Failure to stop/yield (06/26/22), crosswalk violation (03/10/20) and Speeding (09/05/2016).
- Not processed for 8 violations such as: No Inspection/Sticker (11/20/2010).

- Responsible for 16 violations such as: unregistered motor vehicle (06/02/2011) and Speeding (03/28/2013).

Just recently you were cited for a breakdown lane violation (09/21/2023). Also, your license was suspended for your OUI in 2017 and then also suspended for Failure to Pay Fines and Costs in 2013.

The ability to safely operate a vehicle is an essential duty of a Boston Police Officer and officers are often called upon to issue citations for motor vehicle infractions. Your motor vehicle history, including your OUI and numerous traffic violations as referred above reflects negatively on your ability to complete this essential task and deems you unsuitable for employment as a Boston Police Officer.

(R. Exhibit 1)

32. On June 17, 2024, Mr. Watt filed a timely appeal with the Commission.

(Stipulation of Facts)

33. In this appeal hearing, the Appellant did not dispute the accuracy of the content included in the Department's October 19, 2023 PCM, his arrest reports, his driving record, or his criminal record. (R. Exhibits 2-6)

34. Within the 2023 hiring cycle, the Department offered employment to one candidate with an OUI outside the seven-year lookback window. In that case, the candidate's matter was dismissed after he completed a pre-trial diversionary program. The candidate had a total of nine violations. Five of the violations resulted in responsible findings, and four resulted in not responsible findings. The selected candidate's last driving violation occurred in 2019. (R. Exhibit 9; Testimony of Levarity)

35. In accordance with its *Exclusions and Timeframe Guidelines*, the Department did not extend conditional offers of employment to any candidate with an OUI within the seven years of the 2023 hiring cycle. (Testimony of Levarity)

36. Within the 2023 hiring cycle, selected candidates had an average of 9.5 "minor

motor vehicle violations” within the seven years prior to application for Boston police officer.⁴

(A. Exhibit 2)

Applicable Legal Standard

The core mission of Massachusetts civil service law is to enforce “basic merit principles” for “recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills” and “assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.” G.L. c. 31, § 1; See, e.g., *Massachusetts Ass’n of Minority Law Enforcement Officers v. Abban*, 434 Mass. 256, 259 (2001); *MacHenry v. Civil Serv. Comm’n*, 40 Mass. App. Ct. 632, 635 (1995), rev. den., 423 Mass. 1106 (1996); See also *Brookline v. Alston*, 487 Mass. 278 (2021) (analyzing broad scope of the Commission’s jurisdiction to enforce basic merit principles under civil service law). The role of the Civil Service Commission is to determine whether “on the basis of the evidence before it, the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by appointing authority.” *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 304 (1997). *Watertown v. Arria*, 16 Mass. App. Ct. 331 (1983); *McIsaac v. Civil Serv. Comm’n*, 38 Mass. App. Ct. 411 (2000); *Police Dep’t of Boston v. Collins*, 48 Mass. App. Ct. 411 (2000); *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 728 (2003).

Original appointments of civil service employees are made from a list of candidates, called a “certification,” whose names are drawn in the order in which they appear on the civil service “eligible list,” using what is called the 2n+1 formula. G.L. c. 31, §§ 6 – 11; 16 – 27;

⁴ This data was documented in the Department’s response to the Appellant’s discovery request for driving records of admitted applicants. (A. Exhibit 2)

I note that this specific data set was not part of the Department’s assessment of the candidates in Mr. Watt’s hiring cycle, nor did it need to be, because the Department does not limit its review of a candidate’s history to the past seven years.

Personnel Administration Rules, PAR.09. An appointing authority must provide specific written reasons, consistent with basic merit principles, when choosing to bypass a higher ranked candidate in favor of a lower ranked one. G.L. c. 31, § 27; PAR.08(4).

In its review of bypass decisions, the Commission must determine whether the appointing authority has shown, by a preponderance of the evidence, that it had “reasonable justification” for the bypass, after conducting an “impartial and reasonably thorough review” of the relevant background and qualifications bearing on the candidate’s present fitness to perform the duties of the position. *Boston Police Dep’t v. Civil Serv. Comm’n*, 483 Mass. 461, 474-78 (2019); *Police Dep’t of Boston v. Kavaleski*, 463 Mass. 680, 688-89 (2012); *Beverly v. Civil Serv. Comm’n*, 78 Mass. App. Ct. 182, 187 (2010); *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-28 (2003). An action to bypass a candidate is justified when it is “done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law.” *Cambridge*, 43 Mass. App. Ct. at 304, quoting *Selectmen of Wakefield v. Judge of First Dist. Court of Eastern Middlesex*, 262 Mass. 477, 482 (1928); *Commissioners of Civil Serv. v. Municipal Court of the City of Boston*, 359 Mass. 211, 214 (1971). *Cambridge* further states, “[i]n the task of selecting employees of skill and integrity, appointing authorities are invested with broad discretion.” *Id.* at 304.

The Commission’s role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority's actions. *Falmouth v. Civil Serv. Comm’n*, 447 Mass. 814, 824-26 (2006). 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.” *Arria*, 16 Mass. App. Ct. at 334. *See Commissioners of Civil Serv. v. Municipal Ct. of Boston*, 369 Mass. 84, 86 (1975) and *Leominster v. Stratton*, 58 Mass. App. Ct. at 727-28. The Commission owes substantial deference to the appointing authority's exercise of judgment in determining whether there was “reasonable justification” shown. *Beverly v. Civil Serv. Comm’n*, 78 Mass. App. Ct. at 188. That “deference is especially appropriate with respect to the hiring of police officers.” *Id.*

Public safety officers are vested with considerable power and discretion and therefore must be held to a high standard of conduct. *See, e.g., Falmouth v. Civil Serv. Comm’n*, 61 Mass. App. Ct. 796, 801 (2004), citing *Cambridge, supra*, 43 Mass. App. Ct. at 303-305; *Police Comm’r v. Civil Serv. Comm’n*, 22 Mass. App. Ct. 364, 371, rev. den. 398 Mass. 1103 (1986). There is a clear nexus between the driving background of a candidate for a police officer position and the candidate’s current ability to perform the duties of a police officer: “Since police officers operate cruisers as part of their duties, an appointing authority is entitled to weigh the driving records of applicants when making appointments.” *Kelly v. Wakefield*, 24 MCSR 284 (2011).

The ability to operate a police vehicle safely is a critical job function for police officers, and the Commission has consistently affirmed that a poor driving record may serve as a reasonable justification for bypass. *See Serebour v. Boston Police Dep’t*, 36 MCSR 293 (2023); *Gilmore v. Boston Police Dep’t*, 36 MCSR 212 (2023); *McGrath v. Lowell*, 22 MCSR 560 (2009); *Torres v. Lowell*, 22 MCSR 558 (2009); *Campbell v. Boston Fire Dep’t*, 22 MCSR 489 (2009); *Jones v. Boston Police Dep’t*, 22 MCSR (2008).

Analysis

By a preponderance of the evidence, I find that the Department had reasonable justification to bypass Mr. Watt for the position of full-time police officer, based on a lengthy

negative driving history reflecting a pattern of poor judgment. Mr. Watt's numerous motor vehicle violations, coupled with two separate charges of operating under the influence, gave the Department a reasonable justification for the bypass.

The evidence demonstrates that the Department conducted a comprehensive review of Mr. Watt's application. His background was investigated thoroughly and impartially by Sgt. Onishuk initially in 2021, and then again in 2023 by Det. Wozniac. This investigation extended to a review of Mr. Watt's criminal history, driving history, employment history, education, and personal references. It also included an October 2023 discretionary interview, affording Mr. Watt an opportunity to speak about his driving history.

The Department convened an October 19, 2023 roundtable, with representatives from Human Resources, the Legal Department, and the Internal Affairs Division. The RIU detective presented the background investigation findings as set forth in the Privileged and Confidential Memorandum (PCM). After Det. Wozniac left, the roundtable deliberated.

The roundtable had significant concerns about Mr. Watt's driving history, given that operating a cruiser and other police vehicles in a manner that promotes public safety and respect for the law is an essential job function of a police officer. The roundtable voted not to advance Mr. Watt's candidacy.

The comprehensive background check, coupled with the discretionary interview, gave the Department an adequate basis to evaluate whether Mr. Watt's prior violations have any bearing on his current ability to fulfill the duties of a police officer. *See Wine v. Holyoke*, 31 MCSR 19, 24 (2018).

The Commission has adjudged that a candidate's driving history should be considered in context and given appropriate consideration when the candidate operates a motor vehicle for a

living. *See, e.g., Stylien v. Boston Police Dep't*, 31 MCSR 154 (2018); *Stylien v. Boston Police Dep't*, 31 MCSR 209 (2018). The Department must show that there is a nexus among the candidate's prior poor conduct, the position applied for, and the candidate's current abilities. *Morgan v. Boston Police Dep't*, 33 MCSR 131 (2020).

Here, there is a nexus among Mr. Watt's driving history, the position he applied for, and his current ability to perform the job functions. Operating a police cruiser is an essential job function of the position of Boston police officer. As detailed by Ms. Levarity, the Department reasonably seeks to ensure that its police officers will operate their city-owned vehicles in a manner that promotes public safety and does not cause liability for the Department.

Sgt. Onishuk credibly testified, and the administrative record reflects, that Mr. Watt's driving record contains a "substantial amount of violations." Between 2004 and 2020, Mr. Watt received thirty-three violations and was found responsible for sixteen of them. He was stopped for additional driving violations following his first bypass, although he was not found responsible after an opportunity to challenge the citation regarding any of them.

Further, the record reflects that Mr. Watt has engaged in repeated negative behavior behind the wheel, evidencing no curative effect from his experiences – or an unwillingness to conform his conduct to the law. Mr. Watt's driving history includes being found responsible on eight separate occasions for failing to wear a seatbelt. Mr. Watt's driving record also includes four speeding violations, including one for driving 80 miles per hour in a 65 miles per hour zone at the time of his 2016 OUI arrest.

In both instances of Mr. Watt's OUI arrests, other operators telephoned the police and reported their observations of Mr. Watt's "erratic operation". On both occasions, the State Police also observed Mr. Watt committing marked lane violations. In 2005, Mr. Watt was

arrested and charged with OUI and negligent operation of a motor vehicle. The OUI charge was dismissed, and Mr. Watt received a one-year continuance without a finding (CWOFF) on the negligent operation charge.

In 2016, Mr. Watt was arrested and charged again with OUI and negligent operation of a motor vehicle. The negligent operation of a motor vehicle charge was dismissed. Mr. Watt received a one-year CWOFF for the OUI, with mandatory attendance at an alcohol class.

In his discretionary interview, Mr. Watt said, “I made the mistake twice,” and “I know that with three strikes you are out.” He stated that he had since learned his lesson, he understands that driving under the influence poses a risk of death to others and himself, and that he will not repeat this conduct.

While there was testimony from the Department that Mr. Watt’s 2005 OUI arrest, if viewed in isolation, could be considered “stale,” the Department reasonably explained why it considers the “totality” of candidates’ records and how a negative “pattern” can be troubling. The fact that Mr. Watt did not learn his lesson after the first time he engaged in this life-threatening conduct is of legitimate concern to the Department, where police officers are held to a high standard, particularly in regard to complying with safe driving laws. These two OUIs were reasonably considered in conjunction with the additional numerous (and sometimes repeated) violations in Mr. Watt’s driving record.

Mr. Watt does not dispute the accuracy of his driving and criminal history. Rather, he asserts that the Department was obligated under its policy – the *Exclusions and Timeframe Guideline* – not to consider the two prior OUIs because they took place more than seven years ago. In other words, Mr. Watt’s 2023 application presented a clean state in regard to the 2005 and 2016 OUIs. This argument was not supported by the evidence.

On its face, the Department's *Exclusions and Timeframe Guideline* automatically bars candidates based on certain criteria. One such exclusionary criteria is: "OUI within the last seven years. Unless not guilty, then depends on circumstances – check with Supervisor."

Ms. Levarity credibly explained the interpretation and application of this policy by the Department roundtable. Ms. Levarity explained that an OUI within the seven years prior to a candidate's application serves as an automatic exclusion from consideration. She explained that when a candidate presents with an OUI more than seven years before the application, they are not barred from consideration. However, the previous OUI may be considered as part of the totality of candidate's background.

The uniform application of the *Exclusions and Timeframe Guideline* policy in the manner described by Ms. Levarity was demonstrated through credible testimony and documentary evidence. It is also evident that this policy was applied equally to other candidates in Mr. Watt's hiring cycle – one candidate with an OUI outside of the seven-year window was offered a position with the Department.

I note that the selected candidate with a previous OUI had a more favorable driving record and fewer motor vehicle violations than Mr. Watt. Specifically, the selected candidate had a total of nine violations, four of which resulted in a not responsible finding. Additionally, this candidate had only one OUI arrest, in contrast to Mr. Watt's two OUI arrests. Furthermore, the selected candidate's OUI was dismissed following participation in a pre-trial diversionary program.

In contrast, Mr. Watt's second OUI charge resulted in a one-year CWO and mandatory attendance in an alcohol program. Finally, while Mr. Watt had four violations in the four years prior to his 2023 application to the Department, the selected candidate had an entirely clean

record for the four years prior to his 2023 application to the Department. Therefore, the Department's admission of this candidate and its bypass of Mr. Watt are distinguishable and show that the Department has not applied its OUI policy arbitrarily or demonstrated any bias against Mr. Watt.

A preponderance of the evidence establishes that the Department, after conducting "an impartial and reasonably thorough review" of Mr. Watt's candidacy, in addition to holding a discretionary interview, had reasonable justification to bypass Mr. Watt based on his driving history and judgment.

The Department appropriately considered Mr. Watt's 2005 and 2016 OUIs, as well as his numerous and repeated motor vehicle violations, within the context of the totality of his background, and reasonably determined that Mr. Watt was not suited for a position as a police officer, for which safe driving is an essential duty.

CONCLUSION

Accordingly, the Boston Police Department's decision to bypass Adam Watt for the position of police officer is affirmed. The appeal filed under Docket No. G1-24-088 is hereby *denied*.

CIVIL SERVICE COMMISSION

/s/ *Angela C. McConney*

Angela C. McConney
Commissioner

By vote of the Civil Service Commission (Bowman, Chair, Dooley, Markey, McConney, and Stein, Commissioners on May 15, 2025).

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 C.M.R. § 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 to:

Galen Gilbert, Esq. (for Appellant)

Joseph McClellan, Esq. (for Respondent)