

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

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

JEFFREY WHEELER,
Appellant

v.

D1-17-034

**MASSACHUSETTS DEPARTMENT
OF CORRECTION,**
Respondent

Appearance for Appellant:

Jeffrey Wheeler, Pro Se

Appearance for Respondent:

Amy Hughes, Esq.
Division of Human Resources
Department of Correction
Industries Drive, P.O. Box 946
Norfolk, MA 02056

Commissioner:

Paul M. Stein

DECISION

The Appellant, Jeffrey Wheeler, appealed to the Civil Service Commission (Commission), pursuant to G.L.c.31,§43,¹ from a decision of the Respondent, the Massachusetts Department of Correction (DOC), that discharged him from employment with DOC as an Industrial Instructor II. The Commission held a pre-hearing conference at the Commission's offices in Boston on March 7, 2017, and a full evidentiary hearing at that location on April 21, 2017 and May 31, 2017. The full hearing was declared private, with witnesses sequestered. The hearing was digitally recorded.² Twenty (20) exhibits were received in evidence at the hearing (Exhs.1 through 20). The Commission received post-hearing submissions from each party on July 10, 2017.

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

² CDs of the hearing recordings were provided to the parties. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal becomes obligated to transcribe the recordings and supply the court with a written transcript to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion.

FINDINGS OF FACT

Based on the Exhibits entered into evidence and the testimony of the following witnesses:

Called by the Respondent:

- DP, DOC Sergeant (Correction Officer II)
- AC, DOC Lieutenant (Correction Officer III)
- MM, former DOC Captain (Correction Officer IV)
- WM, Shirley MA Police Officer

Called by the Appellant:

- Jeffrey Wheeler, former DOC Industrial Inspector II, Appellant

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes these facts:

1. The Appellant, Jeffrey Wheeler, was appointed to the position of DOC Industrial Instructor I in March 2006. In August 2012, he was promoted to Industrial Instructor II. He held the functional title of General Maintenance Worker (what Mr. Wheeler called a “glorified repairman”). (*Exhs. 1 through 4, 7 & 16; Testimony of Appellant*)

2. Prior to the incidents that gave rise to the Appellant’s termination which is the subject of this appeal, Mr. Wheeler had the following disciplinary history:

- 1/16/2009 Letter of Reprimand – Irregular Inventory
- 2/7/2008 Verbal Warning – Approached Supervisor and Said Obscenity
- 8/29/2011 Letter of Reprimand – Engaged in Verbal Argument with Fellow Co-Worker/Obscenities
- 6/2/2013 5 Day Suspension – Misuse of State Property³
- 9/30/2015 Letter of Reprimand – Continuous Tardiness

(*Exh. 4*)

3. Mr. Wheeler considers himself a well-known “whistleblower”, claiming to have regularly exposed wrongdoing at DOC and elsewhere, especially misconduct affecting him. In particular, while working at MCI Shirley, he accused others of targeting him with personal harassment and violation of his privacy, unlawful surveillance, theft and concealment of other illicit activity. He

³ This offense involved Mr. Wheeler’s use of a DOC van to remove some furniture from his home which Mr. Wheeler acknowledged was a violation of departmental rules. (*Exh. 16*)

attributes misconduct directed as retaliation for his 2012 promotion to Industrial Instructor II at MCI Shirley, a position that he said another employee believed Mr. Wheeler “stole” from him. DOC never found evidence to conclusively substantiate the retaliatory misconduct Mr. Wheeler asserted. (*Exhs. 4, 6, 16 through 20; Testimony of Appellant*)

4. Eventually, after two periods of medical leave, Mr. Wheeler sought a transfer away from MCI Shirley and was administratively reassigned to MCI Concord. (*Exhs. 4, 7 & 9; Testimony of Appellant, AC & MM*)

5. The events which ultimately led to Mr. Wheeler’s termination began in September 2016, approximately six months after his transfer to MCI Concord, when Mr. Wheeler filed a Confidential Incident Report charging certain of his former MCI Shirley co-workers with resuming their harassment of him. (*Exh. 4*)

6. In particular, Mr. Wheeler reported an encounter on September 14, 2016, with an MCI Concord co-worker who said to him that two of his former co-workers at MCI Shirley said “hi”. Mr. Wheeler replied: “Yes tell them hello and I’ll see them in Federal court if I can afford it.” He alluded to his harassment by the DOC Industrial Instructors at MCI Shirley and “that somebody at the top finally gets it and I finally have peace and quiet and can do my job, To kill the weed by ripping out the root of the problem.” (*Exhs. 4, 7 & 9*)

7. On September 20, 2016, DOC Superintendent’s Investigator Lt. AC interviewed Mr. Wheeler concerning his most recent allegations of harassment. Although Lt. AC had made clear that Mr. Wheeler was being interviewed as a victim, not a suspect of misconduct, at Mr. Wheeler’s request, his Union Representative also attended. (*Exhs. 4 & 5; Testimony of AC*)⁴

⁴ Sgt. AC did not record his interviews. (*Testimony of AC*)

8. At the outset, Mr. Wheeler expressed disdain for how he believed the DOC had been ignoring his complaints, becoming so agitated that he was escorted out of the room by his Union Representative. After calming down, he returned and proceeded with the interview, during which he continued to harken back to his prior grievances. (*Exh. 5; Testimony of AC*)

9. Among the statements reported by Lt. AC that Mr. Wheeler made during the interview, one remark stood out. Mr. AC reported that, at the conclusion of the formal interview, Mr. Wheeler said: “Off the record, if this were old school, I’d put a bullet in [one of the former co-worker’s head.” He also made an obscene, graphic remark about the former co-worker’s personal sex life. (*Exhs. 4, 5 & 7; Testimony of AC*)⁵

10. Lt. AC interviewed the MCI Concord employee whom Mr. Wheeler had said passed along the former coworkers’ request to say “Hi”. This witness did verify that the conversations occurred essentially as stated. (*Exhs. 4 & 5; Testimony of AC*)

11. Lt. AC spoke with Mr. Wheeler’s supervisor at MCI Concord who confirmed that someone (he did not recall who) did tell him before Mr. Wheeler was transferred: “Be careful, Jeff is a loose cannon”. The supervisor knew Mr. Wheeler from working with him previously, however, and discounted the remark because he wanted to give him a chance. (*Exhs. 4 & 5*)

12. Lt. AC verbally briefed his Superintendent and prepared a written report dated September 21, 2016 AC was directed by the Superintendent to file an intake with DOC Internal Affairs to upgrade the matter for a formal “Category II” investigation. (*Exhs. 4 & 5; Testimony of AC*)

13. On September 23, 2016, Internal Affairs Capt. MM conducted recorded interviews with the two MCI Shirley employees whom Mr. Wheeler accused of harassment. Both employees confirmed that they did have a speaker-phone conversation with the MCI Concord employee in

⁵ Mr. Wheeler later stated that he did not recall using the words “bullet in [his] head”, but acknowledged the gist of the remark, stating he may have said he would “kick his ass” or should have “fucking knocked his head in and this shit would have stopped right from the get go, and that’s what he needs.” (*Exhs. 4, 7 & 9; Testimony of MM & DP*)

question and remembered saying something to the effect: “Tell Wheels that I said hello”, but denied malevolence or animus toward him. (*Exhs. 4 & 7; Testimony of MM*)

14. On September 23, 2016, Mr. Wheeler was detached from duty with pay pending further investigation of the allegations that he asserted and the threatening statement he made during the September 20, 2016 interview. (*Exh. 4*)

15. Also, on September 23, 2016, Capt. MM reported the matter to the Shirley Police Chief, whom he thought had issued Mr. Wheeler his License to Carry. (*Exh. 4; Testimony of MM*)⁶

16. On October 6, 2016, Internal Affairs Sgt. DP conducted a recorded interview with Mr. Wheeler who acknowledged making offensive remarks about the coworker as reported by Lt. AC (although he claimed the words he used were not exactly what Lt. AC had reported). He denied any intent to commit physical harm, stating that he was “very upset” and “deeply hurt” but “I’m perfectly fine.” (*Exh. 4 & 7*)

17. Throughout the interview Mr. Wheeler reverted back to his many past grievances. He also stated that animus against him had increased after his coworkers discovered that Mr. Wheeler’s brother had served time for criminal conduct. Mr. Wheeler admitted to Sgt. DP that, when he applied for a job at DOC, he did not disclose his brother’s incarceration on his employment application, as he knew was required. (*Exhs. 4 & 7*)⁷

18. By Memorandum dated October 7, 2016, Sgt. DP reported the results of his investigation. As to the allegations of harassment made by Mr. Wheeler, he found those allegations were “Not Sustained.” (*Exhs. 4 & 7*)

⁶ In fact, the issuing authority was the Salisbury Police Chief. (*Exh.4; Testimony of WM, MM and DP*)

⁷ Mr. Wheeler testified at the Commission hearing that he later cleared up what he, himself called a “lie by omission” on his application with senior DOC personnel at least a year earlier, as a condition to his return to duty after medical leave. He believed the fact was then well-known to DOC. The brother has long been released from MCI custody. (*Exh. 4; Testimony of Appellant, MM & DP*)

19. Sgt. DP also concluded that Lt. AC's report of Mr. Wheeler's statements about the coworkers were "highly . . . reliable and worthy of belief", and "not only of considerable concern", but also a violation of DOC rules regarding interpersonal relationships and workplace violence. He further concluded that Mr. Wheeler's admission to concealing on his employment application that his brother was then in MCI custody violated DOC rules requiring disclosure of such information. (*Exhs. 4 & 10 through 13; Testimony of DP*)

20. Capt. MM signed off on the report on October 17, 2016 and the report was accepted by his supervisor, the Chief of Internal Affairs, on October 28, 2016. (*Exh. 4*)

21. Beginning on October 13, 2016 and continuing until October 22, 2016, Mr. Wheeler left a total of 23 voice mail messages on Sgt. DP's DOC-issued cell phone. Most of the messages were angry rants against the DOC in general (which he referred to as the "Department of Corruption"). Among the messages were several that had a more sinister tone, such as:

- "You don't know me, but now you do . . . and you are going to lose so f-----g bad it ain't funny."
- "I'm pretty good at wiping smiles off people's faces."
- "[T]here won't be any backing out now. You guys can f---k off and die. I 'm gonna ride you guys face first down in to the f-----g dirt. . . [G]ame on bro."
- Sgt. [DP], why don't you tell [the Internal Affairs Chief] to rub a little Vaseline on his ass, it won't hurt so bad. Good day."

Sgt. DP downloaded these messages and a CD of the recorded messages was introduced in evidence at the Commission hearing.. Sgt. DP wrote an addendum, dated November 10, 2018, to his original report, detailing the messages. (*Exhs. 4 & 6; Testimony of Appellant & DP*)

22. On October 22, 2016, with the foregoing investigation pending, Mr. Wheeler targeted an employee in the DOC Employee Assistance Program (EAP)⁸, bombarding her DOC-issued cell phone her with more than one hundred text messages from 3:13 AM through 9:23 PM. (*Exh. 4*)

⁸ The employee was a Sergeant with whom Mr. Wheeler had previous contact in her professional capacity with the EAP. (*Exhs. 4 & 9; Testimony of Appellant*)

23. These messages, copies of which were introduced into evidence at the Commission hearing, included, among others:

- “Suicide I don’t think so . . . Homicide hell yaa”
- “No more bars I’m packing heat 24/7”
- “Your [sic] the lead again [first name of employee] but I’m leading all of u this time too [sic] the gates of hell welcome.”
- “Mark me down for premeditated murder temporary insanity do [sic] to doc [sic] . . .”
- Tick tock tick tock goes the angry angry clock”
- “I mean no harm to anyone . . . unless they get involved but . . . now just one will be fine . . . Anything more is a f-----g bonus”

(Exh. 4; Testimony of WM)

24. Based on these additional developments, Capt. MM again contacted the Shirley Police Department. He spoke with Officer WM and requested that Mr. Wheeler’s LTC be revoked. After consulting his commanding Sergeant, who followed up with Capt. MM (explaining that Shirley had not issued the LTC and, therefore could not revoke it), but agreed to order Officer WM to visit Mr. Wheeler’s home and attempt to convince him to agree to voluntarily relinquish his firearm. *(Exh. 4; Testimony of Appellant, WM & MM)*

25. Officer WM and another Shirley Police Officer proceeded to Mr. Wheeler’s residence (a trailer) to find no one there. Mr. Wheeler arrived, pulling his vehicle within a foot of Officer WM’s marked cruiser before stopping and began to rant. When Officer WM asked for the voluntary surrender of his firearm, Mr. Wheeler refused and said if he came back he should bring “Tack Vest and the Goods.” The officers cleared the scene and returned to the station to report to Sgt. Violette. *(Exhs.4 & 14; Testimony of WM)*

26. Shortly after Officer WM’s return to the police station, the EAP employee walked in. With his assistance, she obtained a Harassment Prevention Order, which remained in effect for one year, and ordered Mr. Wheeler to stay away from her and refrain from abuse. *(Exh. 4; Testimony of WM)*

27. At approximately 10:30 p.m. that evening, Officer WM and two other police officers, along with several Massachusetts State Troopers who had been called in for support, arrived at Mr. Wheeler's residence. Officer WM had "Section 12" papers to take Mr. Wheeler to a hospital for mental health evaluation. (*Exh. 4; Testimony of WM*)

28. Mr. Wheeler came to the door and a colloquy ensued in which Officer WM informed him that he was there to take him into "Section 12" custody. Mr. Wheeler turned his body around and, as he did so, a clearly visible handgun was seen tucked in his waist band. Officer WM drew his service revolver. Mr. Wheeler went back into his trailer. Eventually, Mr. Wheeler emerged, complied with orders to drop his firearm (a loaded .45 semi-automatic). He was taken into custody and transported to a hospital for evaluation. His handgun, several loaded magazines and loose ammunition were confiscated. (*Exhs. 4, 9 & 14; Testimony of WM*)

29. While at the hospital, Mr. Wheeler placed a telephone call to the Shirley Police Department and spoke to Officer WM. This call was recorded and the audio CD was introduced in evidence. Among other things, during this telephone call, Mr. Wheeler stated:

- "If they piss me off enough I don't need a gun. I beat someone up 30 years ago retarded."
- I am getting pissed off, really pissed off. . . . If I make up my mind to go trample someone to teach them a lesson, there is going to be just little bitty pieces of them left . . . but I promise you, no one will die, I'm going to make sure they live to be disabled for the rest of their life."

(*Exhs. 4 & 8; Testimony of WM*)

30. On October 24, 2018, DOC Internal Affairs opened another investigation concerning Mr. Wheeler's alleged harassment of the EAP employee and related conduct. Capt. MM was assigned to conduct the investigation. He conducted recorded interviews with the EAP employee and with Mr. Wheeler. (*Exhs. 4 & 9; Testimony of MM*)

31. Mr. Wheeler admitted to sending the EAP text messages and stated that “they are what they are”. He realized that his behavior was inappropriate but said he meant her no harm. He explained that he had come to learn information recently from an acquaintance that led him to suspect that the EAP employee was part of the “rogue group of individuals” whom he suspected regularly recruited other DOC employees and inmates, as well as medical and law enforcement personnel, to further the long-standing conspiracy against him and, most recently, to break into his home, confiscate his property and alter his personnel and medical records. He provided Capt. MM with no specific evidence or information to corroborate these suspicions. (*Exhs. 4 & 9; Testimony Appellant & MM*)

32. On November 17, 2016, Capt. MM submitted his written report that sustained the allegations of misconduct by Mr. Wheeler regarding his texting to the EAP employee and his interactions with the Shirley Police Department (which were largely supported by documentary evidence). He concluded that this behavior violated DOC policy against workplace violence as well as his duty as a DOC employee to conduct himself with dignity, to treat other employees with respect, and to cooperate with all other law enforcement officers. (*Exhs. 4, 10 through 13*)

33. On November 28, 2016, the DOC Deputy Commissioner signed off on Sgt. DP’s report and, on November 30, 2018, signed off on Capt. MM’s report, requesting a Commissioner’s Hearing to address the allegations. (*Exh. 4*)

34. After due notice, a Commissioner’s Hearing was convened on December 21, 2016 before a duly designated Hearing Officer on seven enumerated charges preferred against Mr. Wheeler. The Hearing Officer’s report, dated January 10, 2017, found that the DOC had established five charges in full (threatening an MCI Shirley employee; sending offensive voice mail messages to Sgt. DP; sending inappropriate and threatening text messages to the EAP employee; failing to

cooperate with Shirley Police; and threatening physical violence in a telephone call with Shirley Police) and two charges in part (lying on his application by omitting the fact that his brother was then an MCI inmate; and being the subject of a Harassment Prevention Order). (*Exhs. 1 & 2*)

35. By letter dated February 3, 2017, the DOC Commissioner found that Mr. Wheeler's behavior, as established at the Commissioner's Hearing, violated DOC General Policy I, Rules 1, 2(a), 6(a), 6(b), 9(a), 103 DOC 100.3, 103 DOC 237.01 & 237.02 and 103 DOC 215. The DOC Commissioner concluded that this was serious misconduct and ordered that Mr. Wheeler be terminated from his position with DOC, effective immediately. This appeal duly ensued. (*Exhs. 3, 10 through 13; Claim of Appeal*)

APPLICABLE LAW

A tenured civil service employee may be disciplined only for "just cause" after due notice, hearing and a written decision that states "fully and specifically the reasons therefore." G.L.c.31,§41. An employee aggrieved by that decision may appeal to the Commission, pursuant to G.L.c.31,§43, for de novo review by the Commission "for the purpose of finding the facts anew." Town of Falmouth v. Civil Service Comm'n, 447 Mass. 814, 823 (2006) and cases cited.

The role of the Commission is to determine "whether the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority." City of Cambridge v. Civil Service Comm'n, 43 Mass.App.Ct. 300, 304, rev.den., 426 Mass. 1102 (1997). See also City of Leominster v. Stratton, 58 Mass.App.Ct. 726, 728, rev.den., 440 Mass. 1108 (2003); Police Dep't of Boston v. Collins, 48 Mass.App.Ct. 411, rev.den., 726 N.E.2d 417 (2000); McIsaac v. Civil Service Comm'n, 38 Mass.App.Ct. 473, 477 (1995); Town of Watertown v. Arria, 16 Mass.App.Ct. 331, rev.den., 390 Mass. 1102 (1983).

An action is "justified" if 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." Commissioners of Civil Service v. Municipal Ct., 359 Mass. 211, 214 (1971); City of Cambridge v. Civil Service Comm'n, 43 Mass.App.Ct. 300, 304, rev.den., 426 Mass. 1102 (1997); Selectmen of Wakefield v. Judge of First Dist. Ct., 262 Mass. 477, 482 (1928) The Commission determines justification for discipline by inquiring, "whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service." School Comm. v. Civil Service Comm'n, 43 Mass.App.Ct. 486, 488, rev.den., 426 Mass. 1104 (1997); Murray v. Second Dist. Ct., 389 Mass. 508, 514 (1983)

The Commission is guided by "the principle of uniformity and the 'equitable treatment of similarly situated individuals' [both within and across different appointing authorities]" as well as the "underlying purpose of the civil service system 'to guard against political considerations, favoritism and bias in governmental employment decisions.'" Town of Falmouth v. Civil Service Comm'n, 447 Mass. 814, 823 (2006) and cases cited. It is also a basic tenet of "merit principles" which govern civil service law that discipline must be remedial, not punitive, designed to "correct inadequate performance" and "separating employees whose inadequate performance cannot be corrected." G.L. c.31,§1.

The Commission is entitled to "due weight for its experience, technical competence, and specialized knowledge, as well as to the discretionary authority conferred upon it. . . . This standard . . . is highly deferential to the agency on questions of fact and reasonable inferences drawn therefrom.'" Brackett v. Civil Service Comm'n, 447 Mass. 233, 241-42 (2006) and cases cited. It is the purview of the hearing officer to determine credibility of testimony presented to the Commission. See, e.g., Covell v. Dep't of Social Services, 439 Mass. 766, 787 (2003)

Leominster v. Stratton, 58 Mass.App.Ct. 726, 729 (2003) See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm'n, 401 Mass. 526, 529 (1988); Doherty v. Retirement Bd. Of Medford, 425 Mass. 130, 141 (1997). The Commission takes account of all credible evidence in the entire administrative record, including whatever would fairly detract from the weight of any particular supporting evidence. See, e.g., Massachusetts Ass'n of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 264-65 (2001).

G.L.c.31, Section 43 also vests the Commission with “considerable discretion” to affirm, vacate or modify discipline but that discretion is “not without bounds” and requires sound explanation for doing so. See, e.g., Police Comm'r v. Civil Service Comm'n, 39 Mass.App.Ct. 594, 600 (1996) (“The power accorded to the commission to modify penalties must not be confused with the power to impose penalties ab initio . . . accorded the appointing authority”) Id., (*emphasis added*). See also Town of Falmouth v. Civil Service Comm'n, 447 Mass. 814, 823 (2006), quoting Watertown v. Arria, 16 Mass.App.Ct. 331, 334 (1983).

ANALYSIS

The DOC established just cause to terminate Mr. Wheeler’s employment based on the preponderance of evidence that established a pattern of offensive and threatening behavior toward multiple DOC personnel and law enforcement officers. Even Mr. Wheeler acknowledged that his outbursts of uncontrolled anger were inappropriate, but pleaded that they did not rise to the level of a terminable offense, as he never acted on any of his threats. I cannot agree.

First, this is not a case of a single, uncharacteristic outburst. DOC’s decision is based on a pattern of behavior toward multiple DOC personnel that represents a classic example of the type of workplace harassment that is utterly intolerable in any society, and certainly cannot be condoned in an employee of a para-military organization such as the DOC. DOC was fully

entitled to choose to terminate Mr. Wheeler, who repeatedly demonstrated that he cannot control his ability to conduct himself in a professional and non-threatening manner. Indeed, DOC has a duty to its entire staff to ensure that no person within its organization be subjected to the type of workplace violence that Mr. Wheeler inflicted on his coworkers, or to accept the risk of such violence in the future. Removing an employee with a proven record of disruptive behavior is not only justified; often, as here, it becomes the only effective option an employer has available.

Second, the severity of Mr. Wheeler's misconduct is not mitigated by the absence of proof of actual physical harm. The emotional harm that his verbal threats and intimidation caused are equally significant and just as important to be deterred in the future. The credible evidence, largely documented, established that Mr. Wheeler's continued employment would pose an unreasonable risk to other employees of such emotional harm through further disruptive, threatening and intimidating behavior which Mr. Wheeler had shown no ability to control.⁹

Third, it is a closer call whether Mr. Wheeler's concealing his brother's status as an MCI inmate should be treated as grounds for termination. On the one hand, the offense occurred over ten years ago and there was no evidence that, so long as the brother was in custody, there was any undue contact between the two. I also credit Mr. Wheeler's contention that he did eventually "come clean" with DOC. On the other hand, the concealment clearly weighed on Mr. Wheeler and, in part, contributed to his intemperate behavior toward others whom he believed harbored animus against him for having a convicted felon for a brother. Had this offense been his only transgression, Mr. Wheeler might have had a fair argument for mitigation, but it does not mitigate the severity of his threat of workplace violence which, alone, justifies his termination.

⁹ I take note that the EAP employee chose, on advice of DOC counsel, not to appear and testify at the Commission hearing. Mr. Wheeler argues that her failure to testify shows bad faith on DOC's part, but, after considering the overwhelming and credible independent evidence of the emotional harm that she has suffered, her reluctance actually tends to persuade me that she held a very reasonable fear that an appearance put her at risk of additional emotional harm..

Finally, Mr. Wheeler raised a variety of other substantive and procedural defenses during the course of the hearing. I have no doubt that Mr. Wheeler is convinced that he is the victim of DOC's wrath. To the extent I have not addressed the many other issues he raised, however, they "have not been overlooked. . . . [N]othing in them . . . requires discussion." McCormack v. Department of State Police, 92 Mass.App.Ct. 1103, 2017 WL 3469601 (Rule 1:28), *citing* Commonwealth v. Domanski, 332 Mass. 66, 78 (1954).

CONCLUSION

Accordingly, for the reasons stated, the appeal of the Appellant, Jeffrey Wheeler, in CSC Docket No. D1-17-034 is *denied*.

Civil Service Commission

/s/ Paul M. Stein

Paul M. Stein
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein & Tivnan, Commissioners) on January 17, 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 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. 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:

Jeffrey Wheeler (Appellant)

Amy Hughes, Esq. (for Respondent)