

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

ANTHONY WILSON,
LEIGHTON APP &
DAVID QUEEN,
Appellants

G1-18-065 (Wilson)
G1-18-070 (App)
G1-18-106 (Queen)

v.
WOBURN FIRE DEPARTMENT,
Respondent

Appearance for Appellant Anthony Wilson:

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

Appearance for Appellant Leighton App:

Ryan Arsenault, Esq.
67 Batterymarch Street
Lower Level
Boston, MA 02110

Appearance for Appellant David Queen:

David Queen
Pro Se

Appearance for Respondent:

Ellen Callahan Doucette, Esq.
City of Woburn
City Hall: 10 Common Street
Woburn, MA 01801

Commissioner:

Christopher C. Bowman

DECISION

1. The Civil Service Commission (Commission) received the following bypass appeals regarding permanent reserve firefighter original appointments in the Woburn Fire Department: a) Anthony Wilson (G1-18-065); b) Leighton App (G1-18-070); and c) David Queen (G1-18-106).
2. Pre-hearings were conducted regarding all three (3) of these appeals.

3. The Respondent acknowledges that the Deputy Fire Chief's Son, who was ranked below all three (3) of the Appellants, was appointed as a permanent reserve firefighter from Certification No. 05171.¹
4. The Respondent acknowledges that the Deputy Fire Chief participated (i.e. – asked questions, etc.) in the interviews of the Appellants and other candidates.
5. The Respondent acknowledges that the Deputy Fire Chief was present for the interview of his son, but represents that he did not ask any questions.
6. The Commission has consistently ruled that, to ensure a fair and impartial appointment process, that when the family member of an employee of the Appointing Authority is a candidate, that employee should not participate, *at all*, in that appointment process. (e.g. [Investigation Re: Braintree Police Department's 2013 / 2014 hiring process](#), CSC Tracking No. I-14-245 (2015)).
7. The Respondent proposed that all three (3) appeals be resolved, without a full hearing, with “traditional 310 Relief” in which the Appellants’ names would be placed at the top of the next Certification for reserve firefighter in Woburn until such time as the candidate(s) have been appointed or bypassed.
8. The Commission has, under certain circumstances, taken additional steps beyond ordering traditional 310 relief when warranted (e.g. – [Investigation Re: 2011 Review and Selection of Permanent Intermittent Police Officers in the Town of Oxford \(2011\)](#)).
9. For all of the above reasons, I used a Procedural Order issued on July 13, 2018, ordering, in part, that the Respondent make a proposal beyond the traditional 310 relief that: a) ensures a prompt, fair and impartial review of the Appellants for the position of permanent reserve firefighter in the Woburn Fire Department; and b) ensures that, going forward, appropriate safeguards are in place to ensure that Fire Department employees have no role in hiring processes involving their family members.
10. On August 14, 2018, I held a status conference, which was attended by the Appellants; their counsel; counsel for the Respondent; and the City’s Fire Chief.
11. On August 28, 2018, the Respondent, consistent with the Procedural Order, provided the Commission with a form of proposed relief which includes: a) an additional review of the Appellants which would be overseen by an outside consultant using panel members from Fire Departments from communities which are distant from Woburn; and b) adoption of a directive in the Woburn Fire Department, which, among other things, which would prohibit Department employees from participating in, in any form, a hiring process in which a family member is candidate.

¹ I conducted an in camera review of this candidate’s application for employment. Nothing in this decision is meant to state or imply that this candidate is not qualified for appointment.

After careful review and consideration, the Commission, pursuant to Chapter 310 of the Acts of 1993, hereby orders the following:

- I. For the sole purpose of providing the Appellants with reconsideration for the position of Permanent Reserve Firefighter in the Woburn Fire Department, Certification No. 05171, originally issued by the state's Human Resources Division (HRD) on January 22, 2018, shall be revived.
- II. The Appellants shall be given reconsideration in a manner consistent with the August 28, 2018 proposal submitted by the Woburn Fire Department.
- III. Any conditional offers of employment to the Appellants shall be made before November 1, 2018.
- IV. Should any of the Appellants be appointed as permanent reserve firefighters, they shall be placed on the reserve roster in the same rank as they would have appeared if they had been appointed at the same time as those previously appointed from Certification No. 05171.
- V. Should any of the Appellants not be appointed, they may, within sixty (60) days of notification by the Woburn Fire Department, file to re-open their bypass appeal with the Commission, with no filing fee required.
- VI. The Woburn Fire Department, shall, forthwith, adopt their proposed directive, prohibiting Department employees from participating in hiring processes involving their family members.

SO ORDERED.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on September 13, 2018.

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 to:

Ellen Callahan Doucette, Esq. (for Respondent)
John J. Greene, Esq. (for Appellant Anthony Wilson)
Ryan Arsenault, Esq. (for Appellant Leighton App)
David Queen (Appellant)
Patrick Butler, Esq. (HRD)
Melissa Thomson, Esq. (HRD)
Regina Caggiano (HRD)