

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114
(617) 979-1900

MATHIEU G. WOODS,

Appellant

v.

G1-23-012

BOSTON POLICE DEPARTMENT,

Respondent

Appearance for Appellant:

Mathieu Woods, *Pro Se*

Appearance for Respondent:

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

Commissioner:

Angela C. McConney, Esq.¹

SUMMARY OF DECISION

The Commission denied the Appellant's bypass appeal, concluding that the Boston Police Department had reasonable justification to bypass the Appellant for original appointment as a permanent full-time police officer because he failed to provide numerous documents that he knew were needed to complete his application in a timely manner as required in the hiring process.

DECISION

On February 2, 2023, the Appellant, Mathieu Woods (Mr. Woods or Appellant), acting pursuant to G.L. c. 31, § 2(b), timely appealed to the Civil Service Commission (Commission)

¹ The Commission acknowledges the assistance of Law Clerk Alana Khan with the preparation of this decision.

from the decision of the Boston Police Department (Respondent or Department), the Appointing Authority, to bypass him for appointment to the position of police officer in the Department.

The Commission held a pre-hearing conference on February 28, 2023, via videoconference. On May 2, 2023, I conducted a full evidentiary hearing at the offices of the Commission, located at 100 Cambridge Street, Boston, MA.² I recorded the hearing via the Webex platform, which serves as the official record of the hearing.³ I sent copies of the video recording to both parties via electronic mail.

Mr. Woods testified on his own behalf. The Department called Sergeant Detective John Puglia of the Department's Recruit Investigations Unit (RIU).

I admitted four exhibits into evidence (Exhibits 1 – 4).

The Department submitted its post hearing brief on June 7, 2023. Mr. Woods submitted his post hearing brief on June 15, 2023. For the reasons stated herein, the Appellant's appeal is denied.

FINDINGS OF FACT

From the testimony and the exhibits submitted into evidence, and taking administrative notice of all matters filed in the case and pertinent statutes, regulations, policies, and reasonable inferences from the credible evidence, I make the following findings of fact:

² The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. §§ 1.01 (Formal Rules) apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

³ Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal is obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by substantial evidence, arbitrary or 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.

1. Mathieu Woods is a Massachusetts resident, and has lived in Winthrop, Massachusetts since 2007. Mr. Woods graduated from Winthrop High School. He is currently employed with an airline as a full-time fleet service agent. His job duties include handling baggage. (Testimony of Appellant)

2. Mr. Woods took and passed the civil service examination on August 31, 2022. (Stipulated Facts)

3. Mr. Woods was ranked 84th on Certification No. 08848. Many candidates selected for appointment by the Department were ranked below Mr. Woods. (Stipulated Facts)

4. The Department requires all applicants to complete a multi-component application with written questions. The application also requires some external documentation related to employment history, driving history, and financial history. (Exhibit 1)

5. Before he completed the application, the Department gave Mr. Woods a checklist outlining the application process and the supporting documents he would need to submit. (Exhibit 1; Testimony of Sgt. Det. Puglia)

6. All candidates were also required to attend an orientation with the Recruit Investigations Unit (RIU). Mr. Woods attended the orientation. At this orientation, detectives reviewed every page of the application and discussed the requirements necessary to complete it. There was also time for the candidates to ask questions at the end of the orientation. (Testimony of Sgt. Det. Puglia)

7. At the end of the orientation, the candidates were informed that they could submit their completed applications over a 3-day range from January 30 to February 1, 2023. (Testimony of Sgt. Det. Puglia)

8. After the orientation, Mr. Woods received a January 25, 2023 electronic mail advising that he submit his completed application to the Recruit Investigations Unit on January 30, January 31, or February 1, 2023. (Exhibit 2)

9. The Department usually gives candidates approximately 14 days to submit their applications. However, the candidates from the Appellant's orientation session received approximately 10 days to submit their applications. (Testimony of Sgt. Det. Puglia)

10. If a candidate needed an extension, he or she had to request one from a Recruit Investigations Unit detective. (Testimony of Sgt. Det. Puglia)

11. The RIU reviewed the checklist with Mr. Woods, and checked off the areas of his application that were incomplete. They also informed him that he needed official tax returns. (Exhibit 1; Testimony of Sgt. Det. Puglia)

12. Mr. Woods did not request an extension, and submitted his application on January 31, 2023. (Exhibit 2; Testimony of Sgt. Det. Puglia)

13. Among the candidates from the Appellant's orientation session, 249 candidates submitted a complete application by the given deadline. Mr. Woods was one of seven candidates who submitted an incomplete application. (Testimony of Sgt. Det. Puglia)

14. Upon reviewing Mr. Woods's application, Sgt. Det. Puglia found that it was missing 17 components. (Exhibits 1 and 4; Testimony of Sgt. Det. Puglia)

15. Among the missing components were Mr. Woods's official state and federal tax returns; a notarized credit report; employment attendance records; the number of unexcused absences from his employment history; and the names of supervisors and contact information for current and past employers. (Exhibits 1 and 4)

16. Mr. Woods also checked “yes” in response to the question asking whether he had resigned/quit a job after being told he would be terminated, and if he had left a job by agreement. The questions instructed candidates to explain any “yes” answer, but Mr. Woods failed to provide a written explanation. (Exhibits 1 and 4)

17. Mr. Woods also failed to provide written explanations regarding accidents and citations in his driving history. (Exhibits 1 and 4)

18. Sgt. Det. Puglia uses a standard of reasonableness when determining how many missing components constitute a failure to complete the application. He testified that if there were 1-2 missing components from someone’s application, he would be inclined to assist them in completing the application. (Testimony of Sgt. Det. Puglia)

19. Page 8 of the application included instructions that read in part:

Make sure you read the information in its entirety. Follow all directions as instructed. Complete and submit all requested paperwork along with the application within the time frame requested or by deadline.

(Exhibit 1)

20. When Mr. Woods submitted his application on January 31, 2023, an RIU detective reviewed the application and informed the Appellant what he was missing from the checklist of items. (Exhibit 1; Testimony of Sgt. Puglia)

21. The Appellant did not attempt to submit a revised application or request an extension once the RIU informed him that his application was incomplete. (Exhibit 1; Testimony of Sgt. Puglia)

22. In a February 2, 2023 email, Sgt. Det. Puglia informed Mr. Woods that he was no longer being considered due to his failure to complete the application. (Exhibit 3)

23. Mr. Woods responded to the email, writing that he was under the assumption that a detective would have contacted him to submit missing components because he was having trouble getting some information. He wrote further that he was not told that he would be a “failure to complete” if he did not turn in all the documentation by February 1, 2023. (Exhibit 3)

24. Mr. Woods received a bypass letter, enclosing his appeal rights, on April 20, 2023. (Exhibit 4)

Applicable Law

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).

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 applicable civil service “eligible list”, using what is called the 2n+1 formula. G. L. c. 31, §§ 6 through 11, 16 through 27; Personnel Administration Rules, PAR.09. An appointing authority must provide specific, written positive or negative reasons, or both, consistent with basic merit principles, for bypassing a higher ranked candidate in favor of a lower ranked one. G.L. c. 31, § 27; PAR.08(4).

A person may appeal a bypass decision under G.L. c. 31, § 2(b) for de novo review by the Commission. The role of the Civil Service 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.” *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 304 (1997). In reviewing an appeal, “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. 182, 188 (2010); *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-28 (2003).

Reasonable justification means the appointing authority’s actions were based on adequate reasons supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law. *Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex*, 262 Mass. 477, 482 (1928). *Commissioners of Civil Serv. v. Municipal Ct. of the City of Boston*, 359 Mass. 214 (1971).

Section 2(b) of G.L. c. 31 requires that bypass cases be determined by a preponderance of the evidence. A “preponderance of the evidence test requires the Commission to determine whether, on a basis of the evidence before it, the Appointing Authority has established that the reasons assigned for the bypass of an appellant were more probably than not sound and sufficient.” *Mayor of Revere v. Civil Serv. Comm’n*, 31 Mass. App. Ct. 315 (1991). G.L. c. 31, § 43.

In determining whether there was reasonable justification for a bypass, the Commission is charged with ensuring that the system operates on “basic merit principles.” *Massachusetts Ass’n of Minority Law Enforcement Officers v. Abban*, 434 Mass. 256, 259 (2001). “It is not within the authority of the commission, however, to substitute its judgment about a valid exercise of discretion based on merit or policy considerations by an appointing authority.” *Id.* (citing *School Comm. of Salem v. Civil Serv. Comm’n*, 348 Mass. 696, 698-99 (1965); *Debnam v.*

Belmont, 388 Mass. 632, 635 (1983); *Commissioner of Health & Hosps. of Bos. v. Civil Serv. Comm'n*, 23 Mass. App. Ct. 410, 413 (1987)).

Appointing Authorities are rightfully granted wide discretion when choosing individuals from a certified list of eligible candidates on a civil service list. 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, 334 (1983). See *Commissioners of Civil Serv. v. Municipal Ct. of Boston*, 369 Mass. 84, 86 (1975) and *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-728 (2003). However, personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Commission to act. *City of Cambridge*, 43 Mass. App. Ct. at 304.

Analysis

By a preponderance of the evidence, I find that the Department had reasonable justification to bypass Mr. Woods. It is undisputed that Mr. Woods failed to submit numerous documents and provide responses to multiple questions that he knew were necessary to complete his application. An appointing authority relies heavily on the information candidates provide in their applications to perform a thorough background check into whether they are qualified. Mr. Woods failed to follow the clear instructions written on the application, but nevertheless signed the attestation that his application was complete. Mr. Woods was made aware that his application was incomplete when he submitted it, due to the checklist he received which checked off the missing components. His statement that he did not know that he needed to turn in the missing

documentation by February 1, 2023 is not supported by the record. The Department advised him of the deadline at the orientation and later via a January 25, 2023 email.

Of the candidates from Mr. Woods's orientation session, 249 of them were able to successfully complete their applications within the given time frame. Thus, Mr. Woods's argument that he did not have enough time to complete the application due to his full-time job is not persuasive. Mr. Woods also had the option of requesting an extension from an RIU detective. This he failed to do. During his testimony, Mr. Woods stated that a RIU detective could have contacted the airline, one his employers, to obtain his employment information, yet Mr. Woods failed to provide a supervisor's name or direct contact information – a requirement on the application – for any detective to make such a call, even if he were so inclined.

The components of a candidate's driving record and employment history are particularly important. The Commission has regularly held that an incomplete application is valid cause for concern, and calls into question a candidate's ability to follow instructions. *See O'Regan v. Medford Fire Dep't*, 30 MCSR 501 (2017); *See Fopiano v. City of Cambridge*, 27 MCSR 383 (2014) (upholding the bypass of a candidate who omitted prior employment information and failed to provide a complete and accurate history when given the opportunity to do so).

I credit the evidence presented by the Department that the RIU went over Mr. Woods's application when he first submitted it on January 31, 2023 and pointed out the many deficiencies in his application. I do not credit Mr. Woods's claim that he was unaware, that unless he were granted an extension, his application, and all of the associated documents, needed to be complete by the February 1, 2023 deadline. Mr. Woods failed to submit a complete application and does not accept responsibility for said failure. This is not a situation in which answers to one or two questions had been overlooked or a few documents were missing, or a situation where the

candidate demonstrated that he had worked diligently to supply necessary documents before he was bypassed. The Department was justified in bypass him for appointment as a result.

Conclusion

Accordingly, the Boston Police Department's decision to bypass Mathieu Woods for the position of police officer is affirmed. The appeal filed under Docket No. G1-23-012 is hereby *denied*.

CIVIL SERVICE COMMISSION

/s/ *Angela C. McConney*

Angela C. McConney, Commissioner

By vote of the Civil Service Commission (Bowman, Chair; McConney, Stein, and Tivnan, Commissioners [Dooley – Absent]) on August 10, 2023.

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)(1), 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:

Mathieu Woods (Appellant)

Joseph McClellan, Esq. (for Respondent)