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NOTICE: Decisions issued by the Appeals Court pursuant to its rule 1:28 are primarily addressed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, rule 1:28 decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28, issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent.

COMMONWEALTH OF MASSACHUSETTS APPEALS COURT

← **TOWN** → OF ← **RANDOLPH** → vs. ← **CIVIL SERVICE COMMISSION** → & another. [\[FN1\]](#)

11-P-998

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

Defendant Darren Woolf applied for employment as a police officer, a civil service position, in the town of Randolph (town). Although he is a decorated veteran with experience as a military police sergeant, the town bypassed him for hire because it found that he had not been forthcoming regarding the circumstances of his violation of an abuse prevention order nearly twenty years earlier. He appealed his bypass to the Civil Service Commission (commission), where a hearing magistrate found that the town had a reasonable justification for the bypass based on Woolf's lack of candor, an issue critical to the performance of a police officer. See *Cambridge v. Civil Serv. Commn.*, 43 Mass. App. Ct. 300, 305 (1997); *Falmouth v. Civil Serv. Commn.*, 61 Mass. App. Ct. 796, 801 (2004). See also *Beverly v. Civil Serv. Commn.*, 78 Mass. App. Ct. 182, 188 & n.12 (2010) (emphasizing 'high standards to which police officers appropriately are held'). The commission rejected this decision and, with one commissioner dissenting, engaged in extensive further fact finding about what happened in 1990, including highly speculative conjecture inconsistent with the arresting officer's report and court records. The commission upheld Woolf's appeal and ordered him placed at the top of the eligibility list to be hired as a police officer. On the town's complaint for judicial review pursuant to G. L. c. 30A, § 14, and G. L. c. 31, § 44, a Superior Court judge vacated the decision of the commission as contrary to law. Woolf appeals.

The town's concerns regarding Woolf's candor about the 1990 incident were well substantiated and not undercut by the commission's far-fetched fact finding about what occurred in 1990. The commission cannot substitute its judgment for the town's reasonable decision 'not to take the risk inherent in hiring' as a police officer someone who may not have shown the utmost candor. *Cambridge, supra*. See *Falmouth, supra* (noting 'the importance of maintaining . . . high standards of self-control and truthfulness for police officers'); *Beverly, supra* at 191 ('Absent proof that the [town] acted

unreasonably . . . the commission is bound to defer to the [town's] exercise of its judgment'). 'It is not for the commission to assume the role of super-appointing agency, and to revise those employment determinations with which the commission may disagree.' *Burlington v. McCarthy*, 60 Mass. App. Ct. 914, 915 (2004).

Therefore, for substantially the reasons stated by the chairman of the commission in his dissent, and by the Superior Court judge, the ruling of the commission was '[a]rbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.' G. L. c. 30A, § 14(7)(g), as appearing in St. 1973, c. 1114, § 3. [\[FN2\]](#)

Judgment affirmed.

By the Court (Grasso, Kafker & Milkey, JJ.),

Entered: March 22, 2012.

[FN1.](#) Darren Woolf.

[FN2.](#) The commission must stay focused on its mission 'to guard against political considerations, favoritism, and bias in governmental employment decisions.' *Cambridge*, 43 Mass. App. Ct. at 304. See *Falmouth v. Civil Serv. Commn.*, 447 Mass. 814, 824 (2006). If it ignores the limits on its authority and continues to seek to substitute its judgment for reasonable decisions of appointing authorities of the Commonwealth, as recognized by the dissenting commissioner, it will waste resources of all involved as its rulings will continue to be overturned in the courts. See, e.g., *Beverly*, 78 Mass. App. Ct. at 191-192; *Reading v. Civil Serv. Commn.*, 78 Mass. App. Ct. 1106 (2010) (rule 1:28 disposition); *Boston Police Dept. v. Suppa*, 79 Mass. App. Ct. 1121 (2011) (rule 1:28 disposition).

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