

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**CIVIL SERVICE COMMISSION
One Ashburton Place, Room 503
Boston, MA 02108
(617) 727 – 2293**

KRISTINE LUCAS,

Appellant

v.

CASE NO: G1-11-50

BOSTON POLICE DEPARTMENT,

Respondent

Appearance for the Appellant:

Philip Murray, Esq.
7 Pierce Road
Milton, MA 02186

Appearance for the Respondent:

Nicole I. Taub, Esq.
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Commissioner:

Paul M. Stein

DECISION

The Appellant, Kristine Lucas, duly appealed to the Civil Service Commission (Commission), pursuant to G.L.c.31, §2(b), challenging the decision of the Respondent, Boston Police Department (BPD), as Appointing Authority, to bypass her for original appointment to the position of Boston Police Officer. A full hearing was held on May 16, 2011 at the offices of the Commission and was digitally recorded. Thirteen (13) exhibits were entered into evidence at the hearing. BPD called three witnesses, who were sequestered. Ms. Lucas testified on her own behalf. Both parties subsequently submitted proposed decisions.

FINDINGS OF FACT

Based upon the Exhibits (1 through 13); testimony of the witnesses [the Appellant, BPD Human Resources Director Robin Hunt; BPD Director of Occupational Health Services Unit Roberta Mullan and Dr. Kristian Arnold, MD], and inferences reasonably drawn from that evidence as I find credible, I make the findings of fact set forth below.

1. The Appellant, Kristine Lucas, is a long-time resident of Boston, MA where she was born in 1985 and completed high school in 2004. (*Exh. 1; Testimony of Appellant*)

2. Ms. Lucas is a diabetic, a condition for which she was diagnosed at the age of 13. Since approximately 2006, she has been treated for this condition with prescriptions for Lantus, Homalog and Novolog, which are insulin solutions that are self-administered via subcutaneous (SQ) syringe injection, as prior attempts to control the condition through oral medication (her preference) did not prove effective. (*Exhs. 1, 5, 6, 8, 11 & 13; Testimony of Appellant*)

3. Ms. Lucas first applied for appointment as a BPD police officer in 2007 and received a conditional offer of employment for entry into the 2008 Police Academy class. (*Exh. 1 & 10; Testimony of Appellant, Hunt & Mullan*)

4. Due to her diabetes, BPD required Ms. Lucas to submit three years of medical records. (*Testimony of Appellant*)

5. BPD noticed an entry made by Dr. Mandeep Kaur, a primary care physician during an October 3, 2006 initial screening physical examination. This was Ms. Lucas's first visit with Dr. Kaur, who had replaced her prior PCP. Dr. Kaur wrote, among other things, that Ms. Lucas reported to be a non-smoker and drank beer on weekends, and stated: "no IVDU now, but + in *past*". This report was repeated verbatim in the record of several subsequent visits through February 2008.. (*Exhs 5,6, & 11; Testimony of Appellant*)

6. In response to questions on the recruit application, Ms. Lucas consistently admitted experimenting for a while with marihuana as a teenager. She consistently denied any IV drug use or any other use or experimentation with any other illegal drugs or use of prescription drugs without a prescription. (*Exhs. 1 & 13; Testimony of Appellant*)

7. In a history taken during an emergency room visit for knee pain on March 25, 2007, the history reported on that occasion “Uses alcohol socially, Denies using street drugs, IV drugs, tobacco products.” (*Exhs.8 & 11*)

8. On or about March 29, 2008, BPD informed Ms. Lucas about Dr. Kaur’s notation. Ms. Lucas strenuously denied using illegal drugs of any kind and stated the entry had to be a mistake. (*Exhs. 1, 4, 10 & 12; Testimony of Appellant, Hunt & Mullan*)

9. Ms. Lucas immediately proceeded to contact Tufts Medical Center to see about correcting her record. On April 1, 2008, Dr. Brenda Walkey made the following entry on Ms. Lucas’s medical record:

I have spoken to Kristine Lucas to clarify that the documentation in Dr. Mandeep Kaur’s note from 10/3/06 stating that Kristine has a history of intravenous drug use is untrue and that therefore, the medical records are inaccurate.

Kristine has told me that she in fact has never used intravenous drugs.

I have amended the note from Kristine’s vist with Dr. Kaur who no longer is employed at Tufts Medical Center.

(*Exhs. 5, 6 & 11; Testimony of Appellant*)

10. The social history reports that appear in Ms. Lucas’s medical records for visits at Tufts Medical Center after April 1, 2008 no longer contain the reference to “IV drug use”. I infer that Dr. Walkey took steps at the time she made her 4/1/2008 amendment to ensure that the reference to IV drug use was eliminated from the computer generated social history information so that it would no longer show up at the time of subsequent medical visits. (*Exhs. 5, 6 & 11*)

11. Ms. Lucas immediately informed BPD of these actions and provided a written record from Dr. Walkey. She was told this was “fine” but she needed to get a certified copy of the record within fourteen days in order to be processed with the pending recruit class. When she was unable to meet that deadline, BPD withdrew her conditional offer. (*Exhs. 1, 4 & 10 & 12; Testimony of Appellant, Hunt & Mullan*)

12. BPD was able to offer no other course of action that Ms. Lucas could have taken to correct her medical record. In particular, the addendum written by Dr. Walkey is the most that possibly could have been done to correct Dr. Kaur’s mistaken entry. It would not have been ethical for Dr. Walkey physically to alter a prior medical record, especially one made by a different physician. (*Exh. 3; Testimony of Hunt, Mullan & Dr. Arnold*)

13. In or about June 2010, Ms. Lucas again was reached for consideration for appointment to the BPD. She completed a new application packet and a new background investigation was conducted during which she was interviewed by a BPD detective. This investigation showed nothing to suggest that Ms. Lucas had used IV drugs. She also passed the required BPD drug screen testing. Her criminal record and driving record remained clean. She addressed the medical records issue with the investigator. The investigator’s report noted that this issue had been “resolved”. (*Exhs. 1 & 10; Testimony of Appellant, Mullan & Hunt*)

14. Since December 2008, Ms. Lucas had been employed by the Boston Public Health Commission as a campus police officer. (*Exhs. 1 & 10; Testimony of Appellant*)

15. On or about August 30, 2010, Ms. Lucas’s application was reviewed at a BPD “roundtable” of BPD personnel and, on that date, BPD extended Ms. Lucas a second Conditional Offer of Employment as a BPD police officer, again, subject to passing the medical examination and psychological screening. (*Exh. 2, 10 & 12; Testimony of Appellant & Hunt*)

16. The medical screening component of the application process includes a written health history questionnaire, submission of relevant medical records, and medical exams. (*Exhs. 5 through 9 & 11; Testimony of Mullan*)

17. The medical review process is managed through BPD's Occupational Health Services Unit (OHSU). Since 1986, Roberta Mullan has been the OHSU Director with responsibility for overseeing BPD pre-hiring medical and psychological screening, medical/administrative case management, drug testing, among other tasks. (*Testimony of Mullan*)

18. OHSU provided Ms. Lucas's medical records to Dr. Kristian Arnold for his review. Dr. Arnold is a specialist in emergency medicine who has been employed by the BPD through a contract with the Boston Medical Center since 1993. His responsibilities include conducting medical screening of applications for employment with the BPD, evaluating sick and injured BPD police officers and conducting fitness for duty evaluations. (*Testimony of Dr. Arnold*)

19. Dr. Arnold noted Dr. Kaur's report of prior IV drug use and brought it to Ms. Mullan's attention. Ms. Lucas was not contacted. (*Testimony of Appellant, Hunt, Mullan & Dr. Arnold*)

20. After her discussion with Dr. Arnold, Ms. Mullan prepared an undated Note to File, containing the following statements:

On March 29, 2008, Ms. Kristine Lucas was asked to provide a medical/legal clarification of her medical record [t]hat . . . indicated repeatedly through the documented history . . . that Ms. Lucas had a positive history of IV drug use. . . .

During the processing of the 2010 recruit class, Ms. Lucas stated that she had her record corrected . . . However, upon review, even though the records were certified by the hospital to be complete, the information contained remained unchanged. This positive history of IV drug use appeared throughout the record as it had before with the difference that she denied IV drug use during a recent hospital visit. In our opinion, this did not constitute a legitimate medical/legal change in the history contained in the file.

In summary . . . Although Ms. Lucas verbally denies that this drug use history is true, we have no information to lead us to believe that her extensive medical history as documented is erroneous.

(*Exh. 4 (emphasis added); Testimony of Mullan & Dr. Arnold*)

21. Ms. Mullan's memorandum prompted a reconvened "roundtable". Dr. Arnold was not present and actual medical records were not presented. The roundtable recommended that BPD rescind its conditional offer of employment to Ms. Lucas. (*Testimony of Hunt & Mullan*)

22. On December 13, 2010, the BPD notified Ms. Lucas that she had been bypassed for selection to the 2010 BPD recruit class. The reason for her non-selection is stated to be:

The Department remains concerned with documentation in your personal medical records of a positive history of IV drug use. You did not claim this drug history when asked in your recruit application and contend it is not accurate. However you have been unable to provide sufficient medical documentation to the Department to substantiate that it was in fact a medical error.

(*Exh. 3*)

23. Ms. Lucas was a persuasive witness with an excellent command of the facts and a poised and confident demeanor, both on direct and cross-examination. She gave uncontroverted testimony that she never used IV drugs and that she was truthful in denying illegal use of the extensive list of enumerated substances specified in the application questionnaire, save for her previously-noted brief experimentation with marihuana and once trying cocaine as a youth.¹ She gave credible testimony, confirmed by notes in the medical record, of her history of reluctance to use hypodermic needle and preferred to take her diabetes's medication orally. (*Exh. 11; Testimony of Appellant*)

24. Dr. Arnold testified that heroin was the most prevalent illegal drug injected intravenously in the Boston area, along with less frequent use to inject "designer drugs". He could not opine that Ms. Lucas used such drugs or point to any evidence in her medical record that established any drug abuse or addiction. (*Testimony of Dr. Arnold*)

¹ Ms. Lucas first acknowledged she tried cocaine in response to a question from the Presiding Commissioner at the conclusion of her testimony. She did not disclose her use of cocaine during the BPD application process because she had forgotten about it when she filled out her recruit application. She said she did not mention it in her health history questionnaire because it was only a one-time occurrence. (*Testimony of Appellant; Exhs. 1 & 13*)

CONCLUSION

This appeal involves a bypass of the Appellant for original appointment to a permanent civil service position. This process is governed by G.L.c.31, Section 27, which provides:

“If an appointing authority makes an original or promotional appointment from certification of any qualified person other than the qualified person whose name appears highest [on the certification], . . . the appointing authority shall immediately file . . . a written statement of his reasons for appointing the person whose name was not highest.”

Rule PAR.08(3) of the Personnel Administration Rules, promulgated by HRD to implement this statutory requirement, provides:

“A bypass will not be permitted [without] a “complete statement . . . that shall indicate all reasons for selection or bypass. . . . No reasons . . . that have not been disclosed . . . shall later be admissible as reason for selection or bypass in any proceedings before . . . the Civil Service Commission.”

These requirements mean that candidates will be considered according to their relative placement on the certification list, which creates a rank ordering based on their scores on the competitive qualifying examination administered by HRD, along with certain statutory preferences. In order to deviate from this paradigm, an appointing authority must show specific reasons, consistent with basic merit principles, that justify picking a lower ranked candidate. G.L.c. 31, §1, §27. See, e.g., Commissioners of Civil Service v. Municipal Ct., 359 Mass. 211, 214 (1971), *citing* Selectmen of Wakefield v. Judge of First Dist. Ct., 262 Mass. 477, 482 (1928); Mayor of Revere v. Civil Service Comm’n, 31 Mass.App.Ct. 315, 321n.11, 326 (1991). See also MacHenry v. Civil Service Comm’n 40 Mass.App.Ct. 632, 635(1995),rev.den.,423 Mass.1106(1996)(noting that personnel administrator [then, DPA, now HRD] (and Commission oversight) in bypass cases is to “review, and not merely formally to receive bypass reasons” and evaluate them “in accordance with [all] basic merit principles”).

Candidates are entitled to be adequately, fairly and equivalently considered. Evidence of undue political influence is one relevant factor, but it is not the only measure of unjustified decision-making by an appointing authority. The Commission has construed its obligation to prohibit the bypass of an appellant where it finds that “the reasons offered by the appointing authority were untrue, apply equally to the higher ranking, bypassed candidate, are incapable of substantiation, or are a pretext for other impermissible reasons.” Borelli v. MBTA, 1 MCSR 6 (1988). See Tuohey v. Massachusetts Bay Transp. Auth., 19 MCSR 53 (2006) (“An Appointing Authority must proffer objectively legitimate reasons for the bypass”)

The task of the Commission hearing a bypass appeal is “to determine . . . whether the appointing authority sustained its burden of proving, by a preponderance of the evidence, that there was reasonable justification for the action taken by the appointing authority. . . . Reasonable justification in this context means ‘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.’ ” E.g., Brackett v. Civil Service Comm’n, 447 Mass. 233, 543 (2006) and cases cited. In performing this function:

“[T]he commission does not view a snapshot of what was before the appointing authority . . . the commission hears evidence and finds facts anew. . . . [after conducting] ‘a hearing de novo upon all material evidence and a decision by the commission upon that evidence and not merely for a review of the previous hearing held before the appointing officer. There is no limitation of the evidence to that which was before the appointing officer’ . . . For the commission, the question is . . . ‘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.’ ”

Leominster v. Stratton, 58 Mass.App.Ct. 726, 727-728 (2003) (affirming Commission’s decision to reject appointing authority’s proof of appellant’s failed polygraph test and prior domestic abuse orders and crediting appellant’s exculpatory testimony rebutting that evidence) (*emphasis added*). cf. Town of Falmouth v. Civil Service Comm’n, 447 Mass. 814, 823 (inconsequential

differences in facts found were insufficient to find appointing authority's justification unreasonable); City of Cambridge v. Civil Service Comm'n, 43 Mass.App.Ct. 300, 303-305, rev.den., 428 Mass. 1102 (1997) (same). See generally Villare v. Town of North Reading, 8 MCSR 44, reconsid'd, 8 MCSR 53 (1995) (discussing need for de novo fact finding before a "disinterested" Commissioner in context of procedural due process); Bielawski v. Personnel Admin'r, 422 Mass. 459, 466 (1996) (same)

The "preponderance of the evidence test" requires the Commission to conclude that an appointing authority established, through substantial, credible evidence presented to the Commission, that the reasons assigned for the bypass of an appellant were "more probably than not sound and sufficient." Mayor of Revere v. Civil Service Comm'n, 31 Mass. App. Ct. 315, 321, 577 N.E.2d 325, 329 (1991); Selectmen of Wakefield v. Judge of First Dist. Ct., 262 Mass. 477, 482, 160 N.E. 427, 430 (1928) (*emphasis added*) The Commission must take account of all credible evidence in the 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, 748 N.E.2d 455, 462 (2001)

An appointing authority may rely on information it has obtained through an impartial and reasonably thorough independent review, including allegations of misconduct obtained from third-party sources, as the basis for bypassing a candidate. See City of Beverly v. Civil Service Comm'n, 78 Mass.App.Ct. 182, 189 (2010). There must be a "credible basis for the allegations" that present a "legitimate doubt" about a candidate's suitability, but the appointing authority is not required "to prove to the commission's satisfaction that the applicant in fact engaged in the serious alleged misconduct. . . ." Id., 78 Mass.App.Ct. at 189-90. Especially when it comes to hiring an applicant for a sensitive public safety position, "the commission owes substantial

deference to the appointing authority's exercise of judgment in determining whether there was 'reasonable justification' shown . . . Absent proof that the [appointing authority] acted unreasonably . . . the commission is bound to defer to the [appointing authority's] exercise of its judgment" that "it was unwilling to bear the risk" of hiring the candidate for such a sensitive position. Id., 78 Mass.App.Ct. at 190-91. See also Town of Reading v. Civil Service Comm'n, 78 Mass.App.Ct. 1106 (2010) (Rule 1:28 opinion); Burlington v. McCarthy, 60 Mass.App.Ct. 914,(2004) (rescript opinion); City of Cambridge v. Civil Service Comm'n, 43 Mass.App.Ct. 300, 303-305 (1997); Massachusetts Dep't of Corrections v. Anderson, Suffolk Sup. Ct. No. 2009SUCV0290 (Memorandum of Decision dated 2/10/10), reversing Anderson v. Department of Correction, 21 MCSR 647, 688 (2008).

It is the purview of the hearing officer to determine the credibility of the testimony presented through the witnesses who appear before the Commission. "[T]he assessing of the credibility of witnesses is a preserve of the [commission] upon which a court conducting judicial review treads with great reluctance." E.g., 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). See also Covell v. Dep't of Social Services, 439 Mass. 766, 787 (2003); (In cases where live witnesses giving different versions do testify at an agency hearing, a decision relying on an assessment of their relative credibility cannot be made by someone who was not present at the hearing) Experts' conclusions are not binding on the trier of fact, who may decline to adopt them in whole or in part. See, e.g., Turners Falls Ltd. Partnership v. Board of Assessors, 54 Mass.App.Ct. 732, 737-38, 767 N.E.2d 629, 634, rev. den., 437 Mass 1109, 747 N.E.2d 1099 (2002). Ward v. Commonwealth, 407 Mass. 434, 438, 554 N.E.2d 25, 27 (1990); New Boston Garden Corp. v.

Board of Assessors, 383 Mass. 456, 467-73, 420 n.E.2d 298, 305-308 (1891); Dewan v. Dewan, 30 Mass.App.Ct. 133, 135, 566 N.E.2d 1132, 1133, rev.den., 409 Mass. 1104, 569 N.E.2d 832 (1991).

Applying these principles to the facts of the present appeal, the BPD has failed to prove by a preponderance of the evidence that it had reasonable justification to bypass Ms. Lucas for the position of BPD Police Officer.

The evidence presented to the Commission established that the BPD's decision to bypass Ms. Lucas was based on a number of erroneous facts. Contrary to the statements contained in Ms. Mullan's Note to File and in the BPD December 13, 2010 statement of reasons for bypass, Ms. Lucas's medical records had been corrected since her prior application: (1) Dr. Walkey had made an express written addendum to the original October 3, 2006 note which stated that Dr. Kaur's note was erroneous; and (2) Dr. Walkey initiated a change to the computerized medical record that deleted the erroneous note so that it would no longer appear in the record of any future visit. Every witness presented by the BPD at the Commission hearing acknowledged that Ms. Lucas has done everything they could imagine possible to correct the error made by Dr. Kaur.

In addition, Dr. Arnold, Ms. Mullan and Ms. Hunt were mistaken to discount the subsequent "recent denial" of IV drug use in another part of the medical record because it represented a "self-report" that purportedly post-dated her prior bypass, when she would have had a motive to lie. In fact, the medical record related to a March 25, 2007, which was more than a year before BPD had informed her of the issue (on or about March 29, 2008).

The reconvened roundtable relied on these erroneous facts in deciding to rescind the prior conditional offer of employment and bypass Ms. Lucas. In effect, the roundtable took Dr. Kaur's hearsay statements at face value, and discounted the clear weight of the contrary evidence from

others professionals that his entry was a error, including Dr. Walkey's action that expunged the statement prospectively so that future medical providers would not rely on the error. By failing to take account of the relevant facts, the BPD's conclusion that Ms. Lucas had failed to get her medical records corrected was not based on a "reasonably thorough" independent review and fell short of establishing a "credible basis" for disqualifying her for that reason. See, e.g., City of Beverly v. Civil Service Comm'n, 78 Mass.App.Ct. 182, 189-90 (2010).

Similarly, the BPD failed to establish by a preponderance of evidence any basis upon which to infer that Ms. Lucas had untruthfully denied a history of prior IV drug use on her application. Her denial of illegal IV drug use cannot be untruthful if she did not ever inject IV drugs. The only "evidence" of such use was the erroneous entry by Dr. Kaur, purporting to record a hearsay statement by Ms. Lucas which she never made. The BPD never asked Ms. Lucas directly to explain whether she had used IV drugs, but, all along, had accepted her explanation and simply told her to take steps to clear the record. The BPD conducted no "reasonably thorough independent review" of the matter and, even at the time of the hearing, was unable to produce a scintilla of evidence, expert or otherwise, to infer that Ms. Lucas had ever used heroin or other illegal IV drugs. Absent more, the BPD fell short of establishing a "credible basis" for establishing a "legitimate doubt" about her suitability to become a police officer. Id.

The BPD's contention that Ms. Lucas's bypass should be dismissed due to the revelation at the Commission hearing that she had once tried cocaine is a closer question. The issue of Ms. Lucas's cocaine use and non-disclosure was not fully developed on this record. BPD astutely argues that Ms. Lucas's lack of candor in this regard – only first mentioning it when asked a direct question by the Presiding Commissioner – impeaches her credibility. BPD implicitly acknowledges that her untruthfulness about using cocaine was not a reason known by or stated

by BPD for bypassing her and, therefore, cannot form an independent basis for establishing reasonable justification in the present appeal. Ms. Lucas's explanation for omitting any reference to having tried cocaine (albeit purportedly, just once) was, uncharacteristically, less than compelling. Whatever doubts may linger about that subject, however, they do not persuade me that Ms. Lucas was untruthful about her IV drug use or any other material issues relevant to her present appeal, and do not impeach her credibility with me about those subjects.

That said, the BPD is entitled to hold a recruit applicant to a high standard of truthfulness, especially when it comes to prior criminal behavior. See City of Cambridge v. Civil Service Comm'n, 43 Mass. 300, 303 (1997) ("The city was hardly espousing a position devoid of reason when it held that a demonstrated willingness to fudge the truth in exigent circumstances was a doubtful characteristic for a police officer. . . . It requires no strength of character to speak the truth when it does not hurt.") See also Phillips v. Town of Hingham, 24 MCSR 267 (2011); Mozeleski v. Chicopee, 21 MCSR 676 (2008); Rizzo v. Town of Lexington, 21 MCSR 634 (2008); Layne v. Town of Tewksbury, 20 MCSR 372 (2007)

Nothing in this Decision, however, will preclude the BPD from considering this factor as part of any future consideration of the appointment of Ms. Lucas, along with any other relevant facts, including her claim that the prior omission was an honest oversight and not a deceit, her present tenure as a campus police officer, and her criminal and drug free history. cf. D'Amato v. Boston Police Dep't, 24 MCSR 102 (2011) It may behoove the BPD to hold a discretionary interview on the subject or to take other steps to ensure that a thorough independent review is made to get to the truth of the matter.

RELIEF TO BE GRANTED TO THE APPELLANT

Pursuant to the powers of relief inherent in Chapter 310 of the Acts of 1993, the Commission orders that name of the Appellant, Kristine Lucas, be placed at the top of the eligibility list for original appointment to the position of Police Officer so that her name appears at the top of any current certification and list and/or the next certification and list from which the next original appointment to the position of Police Officer in the Boston Police Department shall be made, until she is appointed or bypassed. The Commission further orders that, in any future consideration for employment as a BPD police officer, the BPD may not rely, as a reason for bypassing Ms. Lucas, on any statement in her medical records, prior to April 1, 2008, purporting to report that she had a prior history of IV drug use. In addition, the Commission orders that, if and when Kristine Lucas is selected for appointment and commences employment as a BPD police officer, her civil service records shall be retroactively adjusted to show, for civil service seniority purposes, December 13, 2010, as her starting date.

For all of the above reasons, the appeal of the Appellant, Kristine Luca is hereby is *allowed*.

Civil Service Commission

Paul M. Stein
Commissioner

By a 4-1 vote of the Civil Service Commission (Bowman, Chairman [YES]; Ittleman [YES], Marquis [NO], McDowell [YES] and Stein [YES] Commissioners on November 1, 2012.

A true record. Attest:

Commissioner

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 the 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 a Civil Service Commission's final 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.

Notice to:

Phillip Murray, Esq. [for Appellant]
Nicole I. Taub, Esq. [for Respondent]
John Marra, Esq. [HRD]