

**THE COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, ss.**

**CIVIL SERVICE COMMISSION**

One Ashburton Place – Room 503

Boston, MA 02108

(617) 727 – 2293

DONAVAN A. BLOOMFIELD,  
Appellant

Docket No.: D-10-16

v.

DEPARTMENT OF CORRECTION,  
Respondent

Representative of Appellant:

Daniel J. O’Neil  
131 Charles Street  
Quincy, MA 02169

Representative of Respondent:

Jeffrey S. Bolger  
Director of Employee Relations  
Department of Correction  
P.O. Box 946 Industries Drive  
Norfolk, MA 02056

Hearing Officer:

Angela C. McConney, Esq.

**DECISION**

The Appellant, Donovan Bloomfield (hereinafter “Appellant”), pursuant to G.L. c.31 § 43, filed an appeal with the Civil Service Commission, (hereinafter “Commission”) on February 3, 2010, claiming the Department of Correction (hereinafter “DOC”) did not have just cause to suspend him without pay for five (5) days for bringing a cell phone and beeper into a

correctional facility in violation of the Rules and Regulations of the DOC, and for being untruthful during the investigation of the violation.

A hearing was held on July 20, 2010 at the offices of the Commission. Since neither party requested a public hearing, the hearing was declared private. The hearing was digitally recorded. Copies of the hearing were forwarded to the parties, and a copy is retained by the Commission.

The Appellant submitted a proposed decision on August 18, 2010. The Respondent submitted a proposed decision on August 19, 2010.

#### FINDINGS OF FACT

Fourteen (14) Appellant Exhibits, twelve (12) Appointing Authority Exhibits and one (1) Joint Exhibit were entered into evidence at the hearing. Based on these exhibits and the testimony of:

##### *For the Appointing Authority:*

- Rhonda L. Morrissette, Correction Officer I
- Commander Sergeant Crystal S. Johnson, Correction Officer I, Inner Perimeter Security
- Deputy Superintendent A. Brad Cowen, Director of Inner Perimeter Security

##### *For the Appellant:*

- Appellant, Sergeant Donovan A. Bloomfield, Correction Officer II

I make the following findings of fact:

1. The Appellant Donovan A. Bloomfield, a tenured civil service employee, has been employed by the DOC since September 25, 1983. (Stipulated Facts)
2. He has been a sergeant since February 15, 1989. (Stipulated Facts)

3. The Appellant is a sergeant (Correction Officer II) at MCI-Framingham, a male correctional facility operated by the DOC. (Testimony of Appellant)
4. DOC employees must adhere to the Rules and Regulations Governing Employees of the Massachusetts Department of Correction, commonly known as the Blue Book. (AA Exhibit 3)

*Previous Discipline*

5. On August 1, 2002, the Appellant was suspended for one (1) day for verbally threatening a union steward and a stress counselor. (AA Exhibit 11)

*Current Discipline*

6. On the day of incident, February 22, 2007, the Appellant reported to work for his regularly scheduled shift. (Testimony of Appellant)
7. Around 1:45 p.m., Inner Perimeter Officer (IPS) Officer Rhonda L. Morrissette (hereinafter “Morrissette”) escorted an inmate to the trauma room in the Health Services Unit (HSU).
8. Morrissette has been an IPS officer since February 2005. As part of her duties, she conducts small investigations within the correctional facility, writes reports, and conducts urinalysis. (Testimony of Morrissette)
9. As Morrissette waited with the inmate for medical attention, she stood in the area of the officers’ desk. The Appellant and Correction Officer Brian W. Bowman (hereinafter “Bowman”) was also present. Twelve (12) inmates were also seated waiting for medical attention. (Testimony of Morrissette, AA Exhibit 7)

10. After approximately 3-4 minutes, Morrissette heard a sound similar to that made by a cell phone chime. Some of the inmates remarked that it sounded like a cell phone. Both Bowman and Morrissette agreed that it sounded like a cell phone. (Testimony of Morrissette, AA Exhibit 7)
11. Approximately one minute later, the Appellant left the officers' desk area, entered the nurses' bathroom and stayed for less than one minute, then left the HSU. (Testimony of Morrissette, AA Exhibit 7)
12. Morrissette immediately notified IPS Commander Sergeant Crystal S. Johnson (hereinafter "Johnson") of the possibility of a cell phone within the institution. (AA Exhibit 7, Testimony of Morrissette)
13. Johnson has been employed with the DOC since 1995, and has been a sergeant since 2004. She conducts investigations of weapons, fights, drugs, gangs and mail among the inmates.
14. Johnson asked Morrissette who had been present. Morrissette replied that Bowman and the Appellant had been present, but that Appellant had gone to the nurses' bathroom, then left the area. The time was now 1:50 p.m. (AA Exhibit 8, Testimony of Morrissette)
15. At approximately 1:50 p.m, Johnson contacted Deputy Superintendent A. Brad Cowen (hereinafter "Cowen"), the Director of IPS Security, and gave him an update. (Testimony of Johnson, Testimony of Cowen, AA Exhibit 8)
16. Cowen has been employed by the DOC for twenty-four (24) years. He has been the Director of Security at MCI-Framingham since July 2006. (Testimony of Cowen)
17. Cowen contacted Deputy Daniel Calis (hereinafter "Calis") and requested permission to search the Appellant's person and belongings. Calis sought approval from Superintendent

Bissonnette (hereinafter “Bissionnette” or “Superintendent”), and when granted, gave the go ahead to Cowen. (AA Exhibit 9)

18. Johnson and Cowen then went to the Yard Area in order to speak to the Appellant. The Appellant was not in the Yard shack, they found him doing a tour of the Yard. (Testimony of Johnson, Testimony of Cowen, AA Exhibit 8)
19. Cowen and Johnson arranged for another Correction Officer to relieve the Appellant, and took him to Cowen’s office. (Testimony of Cowen)
20. Cowen told the Appellant that he had reason to believe that he had a cell phone on his person. The Appellant replied that he did not have a cell phone on him, but that he had a pager. He further stated that the sound that others had heard near the officers’ desk in the HSU was an emission from his pager due to low batteries. (Testimony of Cowen, Testimony of Johnson, Testimony of Appellant, AA Exhibit 9)
21. The Appellant then removed a pager from his left pants pocket. (Testimony of Cowen, Testimony of Johnson, Testimony of Appellant, AA Exhibit 9)
22. Cowen then informed the Appellant that he would be escorted to the Director of Security’s office where Cowen would pat search him. Cowen also informed the Appellant that Johnson would conduct a search of the Appellant’s belongings, including his bag and coat. The Appellant removed his bag from the Yard shack, and was escorted to Cowen’s office. (Testimony of Cowen, Testimony of Johnson, Testimony of Appellant)
23. When they reached Cowen’s office, the Appellant asked for union representation. Cowen acceded to his request, but informed him that the pat search and the search of his belongings would still go ahead. (Testimony of Cowen, Testimony of Johnson, Testimony of Appellant)

24. The Appellant then told Cowen that the cell phone was in his coat pocket. Cowen searched the coat, but to no avail. The Appellant then patted himself down, removed the cell phone from his right pants pocket, and handed it over to Cowen. The phone was not equipped with a camera. (AA Exhibits 8 and 9, Testimony of Cowen, Testimony of Johnson)

25. Because the Appellant turned over the cell phone, Cowen did not conduct the pat search.  
(AA Exhibit 9)

26. The DOC prohibits the introduction of cell phones into a correctional facility. The rules are 7(d) and 16 of the Blue Book as well as 103 DOC 501 Entrance Procedures. (AA Exhibits 3 and 4)

27. Rule 7(d) states:

**7. GENERAL CONDUCT – EMPLOYEES**

(d) Employees should not read, write or engage in any other distracting amusement or occupation during their required work hours, except to consult rules or other materials necessary for the proper function of their duties.

(AA Exhibit 3)

28. Rule 16 states:

**16. PRIVATE POSSESSIONS**

Employees must not bring personal property other than personal effects and car, on or within the precincts and dependencies of the institution without the prior approval of the superintendent or his/her immediate subordinate ...

(AA Exhibit 3)

29. 103 DOC 501 Entrance Procedures states:

**501.05 ENTRANCE PROCEDURES**

**C. VEHICLE TRAP OPERATIONS**

**1. General –** (d) Personal cell phones are prohibited from entering any DOC institution. Personal cell phones shall not include Department or Commonwealth of Massachusetts issued cell phones, which shall be allowed into Department institutions. Any staff member, volunteer, contractor and/or vendor can request permission for a temporary waiver to bring a personal cell phone into a Department institution on a temporary basis for emergency purposes. Such permission shall be sought through the institution's superintendent. Upon such approval from the superintendent, written notification shall be forwarded to the control center/front desk for reference by staff working this area. The superintendent shall develop a process to track approved temporary waivers.

Any cell phone, to include Department or Commonwealth of Massachusetts issued, capable of taking pictures or video shall be prohibited from entering the institution. All cell phones, to include Department or Commonwealth of Massachusetts issued cell phones shall be treated, as a tool and Appendix F of 103 DOC 511 shall be filled out by the officer.

... Personal pagers shall be allowed into Department institutions. However, such personal pagers shall be numeric in nature only (i.e. receipt of incoming messages only). Personal alphanumeric pagers or pages that allow for two-way communication are prohibited from entering Department institutions. The superintendent may grant a waiver for vendors doing business with the institution...  
(AA Exhibit 4)

30. The Appellant did not have permission from the DOC superintendent to carry the cell phone.

(AA Exhibit 2)

31. Cowen informed the Appellant that the incident would be documented. When the Appellant asked whether he would be suspended, Cowen replied that that was a possibility. (AA

Exhibits 8 and 9)

32. The Appellant told Cowen that he did not know that he had his cell phone in his jacket because the pedestrian trap officer had not located it when he searched the Appellant before allowing him entrance into the facility. However, a search of the surveillance tape shows the Pedestrian Trap officer searching the Appellant's lunch box, but not his jacket. (AA Exhibit 6)

33. Cowen informed the Appellant that Johnson would escort him out of the correctional facility in order for him to secure the beeper and cell phone in his motor vehicle. (AA Exhibits 5, 8 and 9)

34. The Appellant then said that he felt some pressure, and wanted to go home. Cowen asked if he needed an ambulance. The Appellant replied no. Cowen then advised him that if he were sick, he should go home sick, but that if he were merely going home sick because he had been found with a cell phone – that was not the best way to handle the situation. Cowen also

said that he would probably issue the Appellant the relevant form for sick time abuse. (AA Exhibits 8 and 9)

35. Cowen suggested that as long as the Appellant felt all right, he should secure the cell phone and beeper in his vehicle, then return and complete the remaining forty-five (45) minutes of his shift. The Appellant replied that he was going home sick. (Testimony of Cowen)

36. Cowen informed the Appellant that he would let Shift Commander Captain Mae Robinson know that he would not be returning to his shift. (Exhibits 5 and 8)

37. At 2:13 p.m., while Johnson was escorting the Appellant to his motor vehicle, he informed her that he was feeling unwell and asked to be seen by the medical staff. Johnson escorted the Appellant to the HSU. He was immediately evaluated by a nurse, then by a doctor shortly thereafter. The doctor called for an ambulance, and Framingham Fire responded. At 2:40 pm., the Appellant was transported to the hospital. (AA Exhibits 5, 6 and 8)

38. That same day, Morrissette filed an incident report documenting all that had taken place in the HSU. (AA Exhibit 7)

39. Johnson filed an incident report of all her interactions with Cowen and the Appellant. (AA Exhibit 8)

40. Cowen also filed an incident report that same day. (AA Exhibit 9)

41. On February 25, 2007, the Appellant submitted the following incident report to the DOC:

“...ON THE DAY IN QUESTION 2/22/07 WHEN I ENTERED WORK I DID NOT KNOW THAT THE CELL PHONE WAS IN MY WORK COAT POCKET. UPON ENTERING THE PEDESTRIAN TRAP MY BAG WAS SEARCH AND COAT WAS SEARCH, AND I WENT INTO THE FACILITY STILL NOT KNOWING THAT I HAVE MY CELL PHONE ON ME IN MY POCKET, EVEN AFTER BEING SEARCH. DURING THE DAY THE BATTERY WENT LOW ON MY BEEPER, WHICH CAUSE THE ALARM SIGNAL THE BATTERY WAS LOW, AND INMATE STATED OUT LOUD “SOME BODY GOT A CELL PHONE” A COUPLE OF TIME, I CONTINUED TO PROMED MY DUTY IN PATROLING THE YARD. I WAS APPROACH BY D.O.S. COWEN AND I.P.S. Sgt JOHNSON, AND THEN



ESCORTED BACK TO D.O.S. COWEN OFFICE. THE D.O.S. ASK ME IF I HAD A CELL PHONE, I IMMEDIATELEY [sic] REPLIED NO, I HAVE A BEEPER. HE THEN STATED HE WAS GOING TO SEARCH MY BAG AND HE ALSO STATED THAT HE WAS GONNA PAT SEARCH ME. I COMPLIED WITH THE D.O.S. WISHES AND I WENT THROUGH MY POCKET OF MY WORK COAT TO REMOVED ANY ARTICLES THROUGH MY SURPRISE I FORGET TO REMOVED MY CELL PHONE FROM MY POCKET IN MY VEHICLE THAT MORNING BEFORE I ENTERED THE INSTITUTION. THIS WHOLE INCIDENT WAS AN ACCIDENT CREATED BY THE BEEPER HAVING A LOW BATTERY, AND NOT BY THE CELL PHONE, BECAUSE IT WAS NEVER PUT ON.”  
(AA Exhibit 10, Testimony of Appellant.)

42. The Appellant spent two (2) days in the hospital. (Testimony of Appellant)
43. Cowen was not satisfied with the Appellant’s explanation of the events, believing him to be untruthful. (Testimony of Cowen)
44. Rule 19 of the Blue Book states:

**Rule 19(c)** Since the sphere of activity within an institution or the Department of Correction may on occasion encompass incidents that require thorough investigation and inquiry, you must respond fully and promptly to any questions or interrogatories relative to the conduct of an inmate, a visitor, another employee or yourself. Pending investigation into the circumstances and your possible involvement therein, you may be detached from active duty forthwith, however, without prejudice and without loss of pay.

**Rule 19(d)** It is the duty and responsibility of all institution and Department of Correction employees to obey these rules and official orders and to ensure they are obeyed by others. This duty and responsibility is augmented for supervising employees, and increasingly so, according to rank. Not only are you charged with certain responsibilities while on duty, but you should also keep in mind that any irregularities coming to your attention while off duty, which affects the welfare of an institution, the Department of Correction or its inmates, should be reported to the institution Superintendent or Commissioner of Correction.  
(Exhibit 3)

45. On March 6, 2007, Captain Brian McDonald (hereinafter “McDonald”) conducted a fact-finding hearing into the incident. The Appellant elected not to have union representation. (AA Exhibits 5 and 6)
46. After reviewing all the reports, videotape and the Appellant’s testimony, McDonald found that the Appellant was not being truthful. He wrote, “Sgt. Bloomfield stated that he did not realize he had his cell phone in his coat pocket, but the phone was

found in his pant pocket not his coat. Therefore at some point in the day Sgt Bloomfield must have taken the phone out of his coat and placed it in his pocket. Sgt Bloomfield did not have the Superintendents [sic] permission to carry a beeper and cell phone in the facility” (AA Exhibit 6)

47. McDonald found the Appellant in violation of Rules 7(d), 16, 19 (c) and 19(d) of the Blue Book as well as 103 DOC 501 Entrance Procedure, and recommended discipline to the Superintendent. (AA Exhibits 4 and 6)

48. The Superintendent accepted McDonald’s finding and notified the Appellant that he would be suspended for five (5) days. (AA Exhibit 2)

49. From 2000 until the date of the incident on February 22, 2007, no fewer than fourteen (14) employees were disciplined for bringing or attempting to bring in cell phones into a correctional facility. (AA Exhibits 12 and 13)

50. The Appellant appealed to the Commission on February 3, 2010. (Stipulated Facts)

51. The Commission heard his appeal on July 20, 2010.

52. Before the Commission, Cowen testified that cell phones present a real danger within a correctional facility. At the very least, they provide a distraction for staff. If a cell phone - especially one equipped with a camera - were to fall into the hands of an inmate, it would cause a serious safety issue. I credit his testimony. (Testimony of Cowen)

53. Morrisette testified to hearing the cell phone ring while she was standing at the officers’ desk in the HSU on February 22, 2010. Her testimony was unchanged from that submitted in her incident report. (AA Exhibit 8, Testimony of Morrisette)

54. Johnson's testimony was also unchanged from that in her submitted incident report. I credit her testimony. (AA Exhibit 9, Testimony of Johnson)
55. The Appellant testified that he has been suffering from a medical issue since 1994, which causes him to be forgetful at times. The DOC reasonably accommodated him when he returned to work by making him an administrative sergeant. (A Exhibits 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14; Testimony of Appellant)
56. He submitted a June 10, 2010 letter from a doctor which stated that his medical condition could cause lapses in memory, but was not definitive in regard to the February 22, 2007 incident. (A Exhibit 1 (*redacted*))
57. The Appellant testified that he suffered a lapse of memory due to his medical condition, and brought the cell phone and beeper into the facility by accident. (Testimony of Appellant)
58. He testified that the noise that was heard at the officers' desk in the HSU was emitted from his beeper due to a low battery. He testified that he didn't know that he had the cell phone in his pants pocket until he patted himself down in the Director of Security's office. (Testimony of Appellant)
59. I find that the Appellant is not credible.
60. The Appellant entered the correctional facility with the cell phone in his coat pocket. His lunchbox was searched in the pedestrian trap, but not his jacket. (AA Exhibit 6)
61. The Appellant failed to inform the DOC that he had brought a cell phone into the environs. After entering the correctional facility, he moved the cell phone from his jacket to his pants pocket. He failed to request permission or a temporary waiver from the Superintendent in order for his possession to be authorized as required under 103

DOC 501 Entrance Procedures. (Testimony of Cullen, Testimony of Johnson, and Testimony of Morrissette).

62. The evidence shows that the cell phone remained concealed from the DOC until it rang while the Appellant was standing at the HSU officers' desk, in the presence of other correction officers and inmates. (Testimony of Cullen, Testimony of Johnson, and Testimony of Morrissette)

63. It is not disputed that the Appellant immediately entered the nurses' bathroom for less than a minute, then left the area. He did not inform the Superintendent of the presence of the cell phone, nor did he not attempt to secure it in his motor vehicle. Instead, he entered the Yard to work a tour among inmates - with the cell phone still on his person. (Testimony of Cullen, Testimony of Johnson, and Testimony of Morrissette)

64. The cell phone remained on his person until he handed it over in Cullen's office, before it would have been subject to inevitable discovery during a pat search. (Testimony of Cullen, Testimony of Johnson)

## CONCLUSION

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). See Watertown v. Arria, 16 Mass. App. Ct. 331 (1983); McIsaac v. Civil Serv. Comm'n, 38 Mass. App. Ct. 473, 477 (1995); Police Dep't of Boston v. Collins, 48 Mass. App. Ct. 411 (2000); Leominster v. Stratton, 58 Mass. App. Ct. 726, 728 (2003). An action is "justified" when 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." Id. at 304, quoting Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482 (1928); Commissioner of Civ. Serv. v. Municipal Ct. of the City of Boston, 359 Mass. 211, 214 (1971). 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." Murray v. Second Dist. Ct. of E. Middlesex, 389 Mass. 508, 514 (1983); School Comm. of Brockton v. Civil Serv. Comm'n, 43 Mass. App. Ct. 486, 488 (1997). The Appointing Authority's burden of proof is one of a preponderance of the evidence which is satisfied "if it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there." Tucker v. Pearlstein, 334 Mass. 33, 35-36 (1956). In reviewing an appeal under G. L. c. 31, § 43, if the Commission finds by a preponderance of the evidence that there was just cause for an action taken against an Appellant, the Commission shall affirm the action of the Appointing Authority. Falmouth v. Civil Serv. Comm'n, 61 Mass. App. Ct. 796, 800 (2004).

The issue before 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 at 334. *See* Commissioners of Civil Serv. v. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster v. Stratton at 727-728.

The Appointing Authority was reasonably justified in disciplining the Appellant. The Appointing Authority's decision to discipline the Appellant was supported by adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law. *See Leominster v. Stratton* at 728.

The Appellant was suspended for violating rules 7(d), 16, 19(c), and 19(d) of the Blue Book and for violating 103 DOC 501 Entrance Procedures. Rule 7(d) directs that employees should not engage in distracting amusement or occupation while on duty. Rule 16 prohibits employees from bringing personal property within the walls of the institution. Rule 19(c) requires that employees must respond fully and promptly to any questions or interrogatories relative to conduct of an employee, inmate, or self. Rule 19(d) requires that all DOC employees obey the rules of the institution. 103 DOC 501 Entrance Procedures directly prohibits the presence of cell phones in the institution.

The Appellant violated Rules 7(d), 16 and 103 DOC 501 Entrance Procedures when he brought his personal cell phone into the correctional facility. He violated Rules 19 (c) when he failed to answer the questions of the DOC fully during the investigation. His actions surrounding bringing in and concealing the cell phone in the correctional facility, and then failing to answer fully and promptly in the ensuing investigation constituted a violation of Rule 19(d).

The Appellant had the opportunity to let the DOC know what happened during Cowen's investigation, in the filing of his February 25, 2007 incident report, and during the hearing on March 6, 2007. The Appellant compounded the violation of being in possession of a cell phone while on duty by being untruthful on all three occasions.

The Appellant asserts that his faulty memory, the result of a myriad of medical conditions, caused him to forget that he was carrying a cell phone when he entered the correctional facility on February 22, 2007. I find that the Appellant had the obligation to report that he had a cell phone when he “discovered” it in his coat pocket. He should have sought permission in order to secure it in his motor vehicle, then return to the correctional facility and complete his shift. Instead, he carried the phone in his pant pocket. When the phone rang, he failed to report it and take the necessary steps in order to secure it. Instead, he entered the bathroom for a short while, then went to the Yard to do his tour – still carrying the cell phone.

The Appellant placed the entire facility in danger when he brought a cell phone into MCI-Framingham on February 22, 2007. Although this particular cell phone did not have a camera, its ability to place calls outside of the monitored prison telephone system would present a serious safety issue. In addition to his lack of regard for the well being of his coworkers, the cell phone provided a distraction for the Appellant, as he left the officers’ desk in the HSU and entered the nurses’ bathroom for less than a minute. The inmates, present when the phone rang, were aware that a correctional officer was carrying a cell phone. They knew that someone who ordered them to adhere to DOC rules was himself in violation of them.

The Appellant’s behavior violated the core mission of the DOC - the safe keeping and custodial care of the inmate population. As a sergeant and an officer, this is unacceptable conduct.

For all the above reasons, the Appointing Authority has demonstrated by a preponderance of the evidence that there was reasonable justification for the Appellant's suspension. There was no

evidence of inappropriate motivations or objectives that would warrant the Commission reducing or overturning the Appellant's suspension.

The Appellant's appeal filed under Docket No. D-10-16 is hereby *dismissed*.

Civil Service Commission

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Angela C. McConney, Esq.  
General Counsel

By a vote of the Civil Service Commission (Bowman, Chairman; Marquis, McDowell and Stein[Henderson, recused], Commissioners) on September 23, 2010.

A true record. Attest:

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Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of this 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 the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

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 sent to:

Daniel J. O'Neil (*for Appellant*)

Jeffrey S. Bolger (*for Appointing Authority*)