

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

JUSTIN JOYCE,
Appellant
v.

Case No.: D-07-228

**DEPARTMENT OF
STATE POLICE,**
Respondent

ORDER

On June 27, 2007, the Appellant filed an appeal with the Civil Service Commission contesting the Department of State Police's (hereinafter "State Police) decision to suspend him for ten (10) days, transfer his place of assignment and forfeit twenty (20) days of accrued leave.

On August 27, 2009, the Commission issued a decision allowing the Appellant's appeal and ordering the State Police to restore the Appellant to his assignment (Troop F – Logan Airport) and make him whole for any loss of earnings and benefits.

On April 20, 2010, the Appellant informed the Commission that the State Police had refused to reinstate the Appellant to Troop F and asked the Commission to exercise its right under G.L. c. 31, § 44 to seek enforcement of the Commission's August 27, 2009 decision in Superior Court.

On June 7, 2010, the parties presented oral argument. The hearing was digitally-recorded.

Notwithstanding its contention that the Commission exceeded its authority by ordering the State Police to restore the Appellant to his assignment, the State Police has agreed to abide by the Commission's decision. The Appellant shall be transferred back to Troop F before any other Troopers when a need arises to fill a vacancy there.

Although it is undisputed that several Trooper positions have been vacated at Troop F since the Commission's decision, none of those vacated positions have been filled. The State Police stated that funding issues and operational needs will determine when the next Trooper position is to be filled at Troop F.

The Appellant argued that compliance with the order required the immediate transfer of the Appellant back to Troop F, regardless of funding or operational issues.

The Commission believes that the State Police will assign the Appellant to Troop F when budget and operational circumstances allow and does not find the State Police in violation of its August 27, 2009 order. The Commission shall not seek enforcement of the August 27, 2009 decision at this time. In the event that the State Police fills a vacant position at Troop F with someone other than the Appellant, the Commission shall reconsider its order regarding enforcement of the decision.

Nothing in this order prohibits the Appellant from seeking enforcement in Superior Court.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Stein and McDowell, Commissioners [Marquis – Absent]) on June 17, 2010.

A True Record. Attest:

Commissioner

Notice to:
Joseph P. Kittredge, Esq. (for Appellant)
LaDonna Hatton, Esq. (for Department of State Police)