

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

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

HEATHER LINDGREN,
Appellant

v.

G1-06-168

DEPARTMENT OF CORRECTION,
Respondent

Appellant's Attorney:

Pro Se
Heather L. Lindgren

Respondent's Attorney:

Alexandra E. McInnis
Director of Personnel
Department of Correction
P.O. Box 946
Norfolk, MA 02056
(508) 850-7880

Commissioner:

Donald R. Marquis

DECISION ON RESPONDENT'S MOTION TO DISMISS

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant, Heather L. Lindgren (hereafter "Lindgren" or Appellant") appealed the decision of the Respondent, the Department of Correction (hereafter "Appointing Authority" or "Department") bypassing her for appointment to the position of Correction Officer I. Appellant claims that she took a September 30, 2000 civil service examination for the Correction Officer I position and was bypassed by the Department's hiring individuals on July 8, 2001 with lower

scores than herself. She also maintains that the Department did not follow the Personnel Administration Rules in utilizing the PAR 10 list.

On September 13, 2006, the Department filed a Motion to Dismiss the appeal with the Commission on the grounds that the Appellant's appeal was not timely and that she was not bypassed. Specifically, the Department stated that the certification referenced in the Appellant's appeal consisted of both an open competitive and PAR 10 lists, that appointments from the open competitive list were made only to the score of 98% and that Appellant scored a 91%, and that all other appointments were made from the PAR 10 list, on which Appellant's name did not appear.

A pre-hearing conference was conducted at the offices of the Civil Service Commission on October 23, 2006. On October 24, 2006, Appellant filed an Answer to the Motion to Dismiss, alleging that her appeal was timely as she had no knowledge of the Appointing Authority's action until long after having been appointed in 2004. She further claimed that she was bypassed as individuals with a lower score than 98% that did not appear on the PAR 10 list were appointed in July 2001. On October 30, 2006, the Department filed a response to the Appellant's response, maintaining that the Appellant's July 2006 filing far exceeded the 60 day limit that has in the past been upheld by the Commission. The Department also reiterated that the Appellant was not bypassed, as her name appeared on only one certification list and appointments made from this list only reached a score of 98%, while Appellant's score was 91%. On November 1, 2006, the Appellant wrote to the Department's Director of Personnel requesting the four certification lists. The Department responded on November 7, 2006 with the requested certifications used to hire the July 2001 Correction Officer Is. The certification lists

submitted showed that Appellant was on a list seeking to hire 85 Full-Time Correction Officers I, that she received an examination score of 91.00, and was willing to accept appointment. On February 1, 2007, the Appellant submitted a letter to the Commission setting forth additional allegations concerning the Department's hiring off of a Residential Preference List in July 2001.

Based on a review of the above documents, the Department's Motion to Dismiss should be allowed. The evidence showed that the Department did not go below a score of 98% in its July 2001 appointments and that all other appointments were made from the PAR 10 list, on which the Appellant's name did not appear. Accordingly, the Commission hereby dismisses the Appellant's appeal as there was no bypass as defined by Chapter 31 in this case.

As there was no bypass in this case, the Appellant's bypass appeal under Docket No. G1-06-168 is hereby *dismissed*.

Civil Service Commission

Donald R. Marquis, Commissioner

By vote of the Civil Service Commission (Bowman, Guerin, Marquis, Commissioners [Taylor – Absent]) on April 5, 2007.

A true record. Attest:

Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A 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:

Heather L. Lindgren

Alexandra E. McInnis