

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

KAI SHAVIS,
Appellant
v.

Case No.: G1-12-39

**DEPARTMENT OF
CORRECTION,**
Respondent

ORDER OF DISMISSAL

On February 7, 2012, the Appellant filed an appeal with the Civil Service Commission (Commission), contesting her non-selection to the position of Correction Officer I (CO I) by the Department of Correction (DOC).

On March 13, 2012, a pre-hearing conference was held at the offices of the Commission, which was attended by the Appellant and a representative from DOC.

The following facts are undisputed:

1. On September 26, 2010, the Appellant took and passed a written examination for CO I, receiving a score of 86.
2. On February 8, 2011, the state's Human Resources Division (HRD), established an eligible list of candidates, upon which the Appellant's name appeared.
3. On May 20, 2011, HRD forwarded Certification No. 4011021 to DOC with a sufficient number of names to meet the statutory "2n + 1" formula from which they would ultimately appoint 204 CO Is.
4. On June 22, 2011, the Appellant was required to complete a Physical Abilities Test (PAT), which is administered to all candidates.
5. Female entrance standards for candidates in the Appellant's age bracket require a candidate to complete 24 sit-ups in 1 minute; 17 push-ups in 1-minute; and complete a 1.5 mile run in 19 minutes, 18 seconds.
6. The Appellant failed the 1.5 mile run portion of the PAT, with a time of 20 minutes, 31 seconds.
7. Unlike the statutory provision (G.L. c. 31, § 61A) that allows candidates for the position of police officer and firefighter to re-take a PAT within 16 weeks, there is no such

requirement for other civil service titles (i.e. – correction officer) and DOC does not permit candidates to re-take the PAT.

8. After the Appellant failed the PAT, DOC bypassed the Appellant. Her appeal to the Commission followed.

CONCLUSION

There is no dispute that the Appellant failed the PAT, which is required of all candidates seeking the position of CO I at DOC. Prior to taking the PAT, the Appellant was cleared by a physician to take the 3-part test. Further, the Appellant has not raised any issue regarding whether the PAT was conducted fairly, free of any defects, mechanical malfunctions, etc.

For this reason, the Appellant’s appeal under Docket No. G1-12-39 is hereby *dismissed*.

While it does not impact the outcome of this appeal, the Commission urges DOC to consider, on a going-forward basis, whether they should adopt, as policy, the same provisions in Section 61A that allow candidates for police officer and firefighter to re-take a failed PAT within 16 weeks.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Marquis, McDowell and Stein, Commissioners) on April 19, 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 this order or 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 this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision.

Notice to:
Kai Shavis (Appellant)
Jeffrey Bolger (for Respondent)
John Marra, Esq. (HRD)