

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

BRIAN CARROLL,

Appellant

v.

Case No.: G1-12-298

TOWN OF STONEHAM,

Respondent

ORDER OF DISMISSAL EFFECTIVE MAY 31, 2013

On September 24, 2012, the state's Human Resources Division (HRD) received a Requisition Form 13 from the Town of Stoneham (Town) for a certification from which it may appoint two (2) permanent, full-time police officers.

On November 7, 2012, HRD issued Certification No. 00291 to the Town. The name of Brian Carroll (Mr. Carroll) appears on page fifteen in the ninth position.

On November 16, 2012, HRD received a PAR.09(2) request from the Town to remove Mr. Carroll's name from Certification No. 00291.

Based on prior correspondence from the Town informing him of the Town's intent to file a PAR.09(2) removal request, Mr. Carroll filed the instant appeal with the Civil Service Commission (Commission) on November 3, 2012.

On November 20, 2012, a pre-hearing conference was held at the offices of the Commission, attended by Mr. Carroll and counsel for the Town. HRD submitted information related to this appeal which the Commission delivered (in-hand) to both parties. As part of this HRD information package, HRD states in part, "Pursuant to the certification delegation, HRD no longer reviews or approves appointments for entry level positions."

In a separate decision being issued by the Commission this same day (Radochia v. City of Somerville, CSC Case No. G1-11-145), HRD, in correspondence with another City stated in relevant part that, "... HRD no longer review[s] or approve[s] PAR.09 removal information. It is the responsibility of the Appointing Authority to determine if the information found on a candidate ... warrants removal."

Consistent with the Commission's conclusion in Radochia, the decision to *remove* an individual from current and future certifications (for the life of the eligible list in question) via PAR.09 shall be made by HRD and shall not be delegated to the Appointing Authority.

As such, Mr. Carroll's name remains on Certification No. 00291. In the event that Mr. Carroll's rank on that certification, among those willing to accept appointment, places him

within the statutory “2n +1” formula, he shall be considered for appointment to the position of permanent, full-time police officer in Stoneham.

In the event that Mr. Carroll is bypassed for appointment by an individual ranked lower than him on Certification No. 00291, the Commission will accept and allow a Motion to Revoke this Order of Dismissal seeking to reinstate the Appellant’s appeal under docket number G1-12-298 for further consideration of that appeal. No additional filing fee will be required. In the absence of a Motion to Revoke, the dismissal of this appeal shall become final for purposes of G.L.c.31, §44, on May 31, 2013.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Marquis, McDowell and Stein, Commissioners) on November 29, 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 as stated below.

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 from the effective date specified in 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:

Brian Carroll (Appellant)

Kevin Feeley, Esq. (for Respondent)