

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

**CHRISTOPHER
LANGLEY,**

Appellant

v.

**DEPARTMENT OF
CORRECTION,**

Respondent

Case No.: G1-13-258

DECISION

Pursuant to G.L. c. 31, § 2(b) and/or G.L. c. 7, § 4H, a Magistrate from the Division of Administrative Law Appeals (DALA), was assigned to conduct a full evidentiary hearing regarding this matter on behalf of the Civil Service Commission (Commission).

Pursuant to 801 CMR 1.01 (11) (c), the Magistrate issued the attached Tentative Decision to the Commission. The parties had thirty (30) days to provide written objections to the Commission. Mr. Langley submitted objections and the Department of Correction submitted a response to those objections.

After careful review and consideration, the Commission voted to affirm and adopt the Tentative Decision of the Magistrate in whole, thus making this the Final Decision of the Commission.

The decision of the Department of Correction to bypass Mr. Langley for appointment as a Correction Officer I is affirmed and Mr. Langley's under Docket No. G1-13-258 is hereby ***denied***.

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell and Stein, Commissioners) on November 13, 2014.

Civil Service Commission

/s/ Christopher C. Bowman

Christopher C. Bowman

Chairman

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:

Matthew T. Christensen, Esq. (for Appellant)

Earl Wilson, Esq. (for Respondent)

Richard C. Heidlage, Esq. (Chief Administrative Magistrate, DALA)

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Civil Service Commission

Appeal of:

Christopher C. Langley,
Appellant

v.

Docket No. G1-13-258
DALA No. CS-14-75

**Massachusetts Department of
Correction,**
Appointing Authority

Appearance for Appellant:

Matthew T. Christensen, Esq.
33 Main Street
Ashburnham, MA 01430

Appearance for Appointing Authority:

Earl Wilson, Esq.
Department of Correction
P.O. Box 946
Norfolk, MA 02056

Administrative Magistrate:

James P. Rooney, Esq.

Summary of Decision

The Department of Correction had reasonable justification to bypass an applicant for the position of Correction Officer I. He failed to show an understanding of the role of a correction officer and had poor communications skills.

RECOMMENDED DECISION

Christopher C. Langley timely appeals, under the provisions of M.G.L. c. 31, § 2(b), a decision by the Department of Correction to bypass him for appointment as a Correction Officer I based on his poor performance during the interview phase of the screening process. I held a hearing in this appeal on February 24, 2014 at the Division of Administrative Law Appeals under the Standard Adjudicatory Proceeding Rules, 801 C.M.R. 1.00. I recorded the hearing digitally.

I admitted fifteen exhibits, five from Mr. Langley and ten from the Department of Correction. James O’Gara, a Personnel Analyst III with the Department of Correction, testified for the Department, and Mr. Langley testified for himself.

Findings of Fact

1. Christopher C. Langley, who was born in 1979, was bypassed on July 24, 2013, for employment as a Correction Officer I with the Department of Correction. (Ex. 11.)
2. Mr. Langley’s brother, Mark Langley, is a correction officer I with nine years’ experience. His mother, Sue Langley, was a correction officer I for approximately 18 years. Mr. Langley has had discussions with both his mother and brother about their work as correction officers. (Ex. 6; Langley Testimony.)
3. Since April 5, 2009, Mr. Langley has been an employee of the Department of Developmental Services at the Templeton Developmental Center. In 2009, after successfully completing a training program entitled, “Understanding and Managing Violent Behavior,” Mr. Langley was authorized to order physical restraint. (Exs. 6, 15.)
4. On March 24, 2012, Mr. Langley took the Civil Service exam to be a correction officer. He scored 86.00. A passing score on the Civil Service exam is 70.00. Mr. Langley was ranked 60 out of 66. (Exs. 2-3.)
5. Correction Officer I is an entry level position in the Department. The Competitive Examination Notice that Mr. Langley received on March 24, 2012, provided a description of the duties and expectations of the position of Correction Officer I. Those duties include maintaining custodial care and control of inmates by escorting or transporting them under restraint; patrolling facilities; making rounds, headcounts, and security checks of the buildings, grounds and inmate quarters; monitoring inmate movements and whereabouts; guarding and directing inmates during work assignments; observing inmate behavior; noting and investigating contraband or suspicious inmate activity; and preparing monthly evaluative reports on inmates. (Ex. 1; O’Gara Testimony.)

6. Applicants who score well on the civil service exam and successfully complete the screening process proceed to a training academy for 10 to 12 weeks. (O’Gara Testimony.)
7. The Department scheduled Mr. Langley to report to the Shirley Training Academy on July 24, 2013 at 7 o’clock in the morning, with almost 300 other applicants, for a screening process that consisted of a physical fitness assessment and an interview. (Ex. 4; O’Gara Testimony.)
8. The physical fitness assessment typically takes over an hour to complete. Additionally, there is usually an interval of 1 to 1½ hours between the time the physical assessment ends and the interviews begin. In the interim, applicants complete paperwork and are provided the opportunity to shower and change clothes. (O’Gara Testimony.)
9. Mr. Langley passed the physical fitness portion of the screening process. After the physical fitness assessment, Mr. Langley began to sweat uncontrollably. The sweating persisted throughout his interview. (Langley Testimony.)
10. All candidates completed a pre-interview questionnaire composed of three questions. The directions to the questionnaire stated that answers were to be two or three paragraphs in length. Mr. Langley provided one sentence answers to each question. (Ex. 8.)
11. The first question asked applicants why they wanted to be a correction officer. Mr. Langley answered, “I want to be a correction officer because I can better me and my family with income and healthcare.” The second question asked applications how they perceive the job of correction officer. Mr. Langley answered, “To watch and observe flow policies and procedures and assure that the rights of Individuals are maintained.” The third question asked applications how they view the role of the Department of Correction in society. Mr. Langley answered that the role of the Department was, “To keep the public safe from people that do not abide the rules.” (Ex. 8.)
12. The interview was conducted by a three person panel. The panel included a chair who was a subject matter expert and held a management level position within the Department,

and two correction officers. The correction officers on Mr. Langley's panel had been trained in interviewing, and had prior experience in the applicant screening process.

(O'Gara Testimony.)

13. All applicants were asked the same nine questions during the interview. (O'Gara Testimony.)
14. The interview panel scores answers on a 1 to 5 scale. An answer that was scored a 1 meant that the answer was "less than satisfactory"; a score of 2 meant the answer was "satisfactory"; a score of 3 meant the answer was "average"; a score of 4 meant the answer was "excellent"; and a score of 5 meant the answer was "outstanding." (Ex. 11.)
15. In Part A of the interview evaluation form, which measures experience and abilities based on an applicant's resume, application, and interview, Mr. Langley received a score of 7 points out of a possible 20. In the breakdown of his scoring in Part A, Mr. Langley's score for "Experience & Competence in Related Work" was 2 out of 5; in "Education/Training Related to this Position" it was 2 out of 5; in "Work History" it was 2 out of 5; and in "Communication/Interpersonal Skills" it was 1 out of 5. (Ex. 11.)
16. James O'Gara is a Personnel Analyst III at the Department with 7 years of experience. His primary function is the supervision of the civil service hiring process for correction officers and correction program officers. (O'Gara Testimony.)
17. According to Mr. O'Gara, a score of 7 in Part A is "very low." (O'Gara Testimony.)
18. Mr. Langley's score for Part B, which is based on his answers to the nine interview questions, was 20 out of a possible 45. Mr. Langley's combined score was 27 points out of a possible 65. (Ex. 11.)
19. According to Mr. O'Gara, a score of 20 on Part B is "low" and Mr. Langley's total score of 27 was a "low score", "one of the lowest scores [Mr. O'Gara had] seen." (Ex. 11; O'Gara Testimony.)

20. The first question asked applicants to explain what they think are the duties of a corrections officer. Mr. Langley recalled that he answered that “you will be watching and overseeing individuals, taking headcounts, and following the policy and procedure ... what you guys teach me.” (Langley Testimony.)
21. The seventh question posed a hypothetical: One of the inmates is very hostile, verbally abusing the applicant and other inmates. Applicants were asked what steps they would take to ensure that control is maintained and that other inmates are not drawn into participating in the hostile inmate’s behavior. Mr. Langley recalled answering that he would, following his training, deescalate the situation. He added that, if necessary, he would restrain the inmate and call an emergency code pursuant to policies and procedures. (Langley Testimony.)
22. The eighth question asked applicants why they believe it is important for correction professionals to be punctual and arrive at work in the proper uniform. Mr. Langley answered that it was professional. (Langley Testimony.)
23. Mr. Langley’s individual scores on each on question was as follows:

Question 1: 2 out of 5;
Question 2: 2 or 3 out of 5;
Question 3: 3 out of 5;
Question 4: 2 out of 5;
Question 5: 3 out of 5;
Question 6: 2 out of 5;
Question 7: 2 out of 5;
Question 8: 2 out of 5;
Question 9: 1 or 2 out of 5.

(Ex. 11.)¹

24. In the comments section of the interview evaluation, the interviewer noted that Mr. Langley had “Poor communication skills. [He is] [n]ot recommended for position @ this time.” (Ex. 11.)

¹ Mr. O’Gara could not explain for why more than one number was circled on the evaluation form for questions 2 and 9. I will assume the panel meant to indicate that the answer was scored as being between the two circled numbers.

25. In the narrative appended to the evaluation, Jessica DeJesus, a Correction Officer I who was on the panel, opined that Mr. Langley “seemed to have difficulty comprehending the questions that were asked of him by the panel.” Additionally, “it appear[ed] that Mr. Langley had a lack of knowledge and understanding of the Department of Corrections based on his responses to the panel’s questions.” She noted, as well, that his “communications skills were less than satisfactory.” (Ex. 11; O’Gara Testimony.)
26. The interview panel declined to recommend Mr. Langley for the position of Correction Officer I. (Ex. 11.)
27. From the class of nearly 300 applicants, 182 were selected. 11 applicants were rejected in the interview evaluation phase. (O’Gara Testimony.)
28. The Non-Consideration/By-Pass Letter dated November 13, 2013, gave, as reason for Mr. Langley’s bypass, the fact that “the Interview Panel did not recommend [him] for appointment.” (Ex. 12.)
29. Mr. Langley timely appealed his bypass. (Ex. 13.)

DISCUSSION

The Civil Service Commission’s role in reviewing Mr. Langley’s bypass is not to determine anew whether he should have been bypassed, but, rather, to determine whether the appointing authority has proven, by a preponderance of the evidence, that there was reasonable justification for bypassing him. M.G.L. c. 31, § 2(b); *Brackett v. Civ. Serv. Comm’n*, 447 Mass. 233, 241 850 N.E.2d 533, 543 (2006); *Beverly v. Civ. Serv. Comm’n*, 78 Mass. App. Ct. 182, 187 936 N.E.2d 7, 11 (2010). The “reasonable justification” standard that appointing authorities are required to meet is satisfied if it is shown that the bypass was “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.” *Brackett*, 477 Mass. at 241 850 N.E.2d at 543, quoting *Selectmen of Wakefield v. Judge of First Dist. Court*.

of E. Middlesex, 262 Mass. 477, 482 160 N.E. 427, 430 (1928); *see also Police Dep't. of Boston v. Kavaleski*, 463 Mass. 680, 688 978 N.E.2d 55, 62 (2012).

“In the task of selecting public employees of skill and integrity, appointing authorities are invested with broad discretion.” *Town of Burlington v. McCarthy*, 60 Mass. App. Ct. 914 805 N.E.2d 88 (2004). Accordingly, the role of the Civil Service Commission in reviewing the decision of the appointing authority is limited to scrutinizing employment decisions for “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*, 16 Mass. App. Ct. 331, 334 451 N.E.2d 443, 445 (1983). Absent proof that the Department acted unreasonably, it may be not be forced to take the risk of hiring unsuitable candidates. *Tewksbury v. Massachusetts Civ. Serv. Comm'n*, No. 10-657-G, (Mass. Super. Ct., Suffolk. Cty., Aug 30, 2012).

The record supports the Department’s contention that it had reasonable justification to bypass Mr. Langley.

According to the bypass notice Mr. Langley received from the Department, Mr. Langley was bypassed because of his poor performance in the interview. Mr. Langley’s argues, however, that his score in the interview was objectively passing because he received at least 2 out of 5 on all but one question, and thus his answers must have been satisfactory. This argument is not tenable. Although the interview evaluation form provided that 2 out of 5 was a satisfactory score, nothing in the record suggests that an overall average score of 2 is objectively passing.

Instead, the record shows that Mr. Langley’s score was very low. The panel scored Mr. Langley 27 out of a possible 65 on the interview. James O’Gara, a Personnel Analyst III with the Department, testified that it was one of the lowest scores he had ever seen. In the comments and in the narrative addendum, the interview panel concluded that Mr. Langley did not grasp the role of a correction officer and that his communications skills were poor.

The assessment of the panel is sustained by the record. Mr. Langley's answers to the nine interview questions lacked depth and consideration. Particularly, in question seven, a question that called for applicants to respond to a hypothetical scenario, Mr. Langley answered briefly that he would follow departmental policies and procedures. In question 8, Mr. Langley answered that it was important to appear at work on time and in uniform simply because it "was professional."

Mr. Langley's answers also demonstrated a questionable understanding of a correction officer's responsibilities. In answer to question one, which asked applicants what they thought were the duties of a correction officer, Mr. Langley provided a spare and unelaborated description, stating that the job required taking headcounts, "watching individuals," and following Department policies and procedures, even though the description he was given in the Competitive Examination Notice included a list of what a correction officer's duties and expectations actually were. *See Finding 5.*

Mr. Langley's answers to the pre-interview questionnaire were similarly lacking in thoughtfulness. The directions to the questionnaire charged applicants with writing two to three paragraphs in answer to each of the three questions. This was designed to explore the depth of an applicant's interest and knowledge about the Department and the job of a correction officer. Each of Mr. Langley's answers consisted of only a single sentence. Notably, in answer to the question of why he wanted to work for the Department, Mr. Langley did not once mention the work itself, but focused instead on the salary and health insurance he expected to receive as a correction officer.

It is not insensible for the Department to expect that a prospective employee possesses some understanding of the Department and of the position for which he applies. Mr. Langley had ample opportunity and resources to enhance his understanding of the duties of a correction officer. Members of his immediate family are, and were, correction officers. The notice all applicants received before the screening process provided a detailed account of the

duties of a correction officer. Mr. Langley presents as someone with a genuine interest in becoming a correction officer. What is evident from the testimony and the exhibits is that in order to pass the interview, Mr. Langley needed to convey greater knowledge of a correction officer's role and his own thoughts about how he would handle the difficult situations that a correction officer may face.

A preponderance of the credible evidence shows that the Department had reasonable justification for bypassing Mr. Langley at this time. Mr. Langley interviewed poorly and received low scores. The content of his interview, and the content of his written answers to the questionnaire, showed a weak communications ability and an uncertain grasp of a correction officer's duties. Accordingly, I recommend that the Department's appealed decision to bypass Christopher C. Langley's application for appointment as a Correction Officer I be affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS

James P. Rooney
First Administrative Magistrate

Dated: September 5, 2014

