

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

PALOMA TEJEDA,
Appellant

v.

G1-17-201

BOSTON POLICE DEPARTMENT,
Respondent

Appearance for Appellant:

Pro Se
Paloma Tejada

Appearance for Respondent:

Peter Geraghty, Esq.
Boston Police Department
One Schroeder Plaza
Boston, MA 02120

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On October 4, 2017, the Appellant, Paloma Tejada (Ms. Tejada), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Boston Police Department (BPD) to bypass her for original appointment as a police officer.
2. On October 24, 2017, I held a pre-hearing conference which was attended by Ms. Tejada and counsel for the BPD.
3. As part of the pre-hearing conference, both parties agreed that Ms. Tejada was bypassed after being given a conditional offer of employment and failing the vision portion (uncorrected) of the medical examination.
4. G.L. c. 31, § 61A states in relevant part: “If such person fails to pass an initial medical or physical fitness examination, he shall be eligible to undergo a reexamination within 16 weeks of the date of the failure of the initial examination. If he fails to pass the reexamination, his appointment shall be rescinded.”
5. The parties agreed that Ms. Tejada was still within the above-referenced 16-week re-test period and that the BPD would facilitate a re-test.

6. If Ms. Tejada were to pass the re-test, the parties would file a joint request for relief seeking to allow Ms. Tejada to be considered in the next hiring cycle.
7. If Ms. Tejada failed the re-test, she would withdraw her appeal with the Commission.
8. The BPD was ordered to notify the Commission of the re-test results upon receipt of results.
9. On December 22, 2017, the BPD provided the Commission with the results of Ms. Tejada's vision re-test, which was completed on December 5, 2017, showing that she failed the vision re-test.
10. As of the date of this order, Ms. Tejada has not withdrawn her appeal from the Commission.

Analysis

There no longer appears to be a factual or legal dispute for the Commission to adjudicate here. Pursuant to the civil service law, Ms. Tejada, after failing the initial vision test, was given the opportunity for a re-examination, which she also failed. As such, she has not met the minimum requirements listed in the conditional offer of employment, thus justifying the BPD's decision to bypass her for appointment as a police officer.

Conclusion

For these reasons, Ms. Tejada's appeal under Docket No. G1-17-201 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on March 15, 2018.

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)(l), 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. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice:

Paloma Tejada (Appellant)

Peter Geraghty, Esq. (for Respondent)