

COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION

Decision mailed: 8/28/09
Civil Service Commission CB

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

JAMIL J. CAMPBELL,
Appellant

v.

BOSTON FIRE
DEPARTMENT,
Respondent

Case No.: G1-08-46

DECISION

After careful review and consideration, the Civil Service Commission voted at an executive session on August 13, 2009 to acknowledge receipt of the report of the Administrative Law Magistrate dated June 5, 2009. Neither party submitted comments to the Commission. The Commission voted to adopt the findings of fact and the recommended decision of the Magistrate therein. A copy of the Magistrate's report is enclosed herewith. The Appellant's appeal is hereby *denied*.

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, Stein and Taylor, Commissioners) on August 27, 2009.

A true record. Attest.



Christopher C. Bowman
Chairman

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(I), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 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 to:

Jamil J. Campbell (Appellant)
Robert J. Boyle, Esq. (for Appointing Authority)
John Marra, Esq. (HRD)
Richard Heidlage, Esq. (DALA)

THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS
98 NORTH WASHINGTON STREET, 4TH FLOOR
BOSTON, MA 02114

SHELLY L. TAYLOR
Chief Administrative Magistrate

Tel: 617-727-7060
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June 5, 2009

Christopher C. Bowman, Chairman
Civil Service Commission
One Ashburton Place, Room 503
Boston, MA 02108

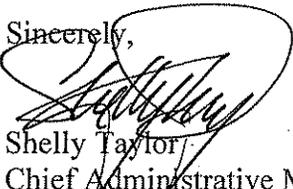
Re: Jamil J. Campbell v. Boston Fire Department
DALA Docket No. CS-08-419

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CIVIL SERVICE COMMISSION

Dear Chairman Bowman:

Enclosed please find the Recommended Decision that is being issued today. The parties are advised that, pursuant to 801 CMR 1.01(11)(c)(1), they have thirty days to file written objections to the decision with the Civil Service Commission. The written objections may be accompanied by supporting briefs.

Sincerely,


Shelly Taylor
Chief Administrative Magistrate

SLT/das

Enclosure

cc: Jamil J. Campbell
Robert J. Boyle, Jr., Esq.

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative
Law Appeals

Jamil J. Campbell,
Appellant,

v.

Docket No. G1-08-46
DALA No. CS-08-419

Boston Fire Department,
Appointing Authority.

Appearance for Appellant:

Jamil Campbell, *pro se*
[REDACTED]
[REDACTED]

Appearance for Appointing Authority:

Robert J. Boyle Jr., Esq.
City of Boston Office of Labor Relations
Boston City Hall, Room 624
Boston, Massachusetts 02201

Administrative Magistrate:

Natalie S. Monroe, Esq.

SUMMARY OF DECISION

The Boston Fire Department demonstrated reasonable justification for bypassing the appellant based on his arrest history, poor driving record, two suspensions from his current job, and his failure to respond to an order to show cause in an earlier bypass appeal.

RECOMMENDED DECISION

On January 31, 2008, the Commonwealth's Human Resources Division ("HRD") upheld the Boston Fire Department's decision to bypass Jamil Campbell for a position as a firefighter in the fire department. On the same date, HRD also issued a decision

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granting the Boston Fire Department's request to permanently remove Mr. Campbell from the Civil Service eligibility list for appointment as a firefighter in the Boston Fire Department. Mr. Campbell appealed both decisions under the provisions of G.L. c. 31, § 2(b).

On March 27, 2008, the Boston Fire Department moved to dismiss Mr. Campbell's appeal. On April 25, 2008, the Civil Service Commission denied the Boston Fire Department's motion and referred the appeal to the Division of Administrative Law Appeals for a full hearing.

On July 3, 2008, the Boston Fire Department filed a motion to reconsider the Civil Service Commission's ruling on the motion to dismiss. I denied the motion on July 10, 2008.

I held a hearing on July 10, 2008, and October 7, 2008, at the offices of the Division of Administrative Law Appeals, 98 North Washington Street, Boston, Massachusetts. Three witnesses testified at the hearing. Robert Moran and Edward Scigliano testified for the Boston Fire Department, and Jamil Campbell testified on his own behalf. Various exhibits (Exhibits 1-12) were entered into evidence during the hearing. The proceedings were recorded on three cassette tapes.

FINDINGS OF FACT

Based on the documents entered into evidence (Exhibits 1-12) and the testimony of Jamil Campbell, Robert Moran and Edward Scigliano, I make the following findings of fact:

1. Jamil Campbell is a Boston resident. He has an associate's degree in accounting and served in the United States Navy from December 1996 to December

2000. He was honorably discharged from the Navy. (Testimony of Jamil Campbell; Exhibits 8, 12).

2. Mr. Campbell is a Site Officer for Boston Municipal Protective Services, a special unarmed police force responsible for protecting public buildings in the City of Boston. (Testimony of Jamil Campbell and Robert Moran).

3. Mr. Campbell has worked as a Site Officer since November 2005. He is assigned to work at Boston City Hall. (Testimony of Edward Scigliano and Jamil Campbell; Exhibit 12).

4. In 2006, the Boston Fire Department requested an eligibility list from HRD for one or more full-time firefighters. (Testimony of Jamil Campbell and Edward Scigliano).

5. Mr. Campbell's name appeared on the eligibility list. (Testimony of Jamil Campbell and Edward Scigliano).

6. Mr. Campbell's supervisor at Boston Municipal Protective Services wrote the Boston Fire Department a letter of recommendation on Mr. Campbell's behalf. (Testimony of Jamil Campbell).

7. The Boston Fire Department did not appoint Mr. Campbell, but bypassed him for candidates who were ranked lower on the Civil Service eligibility list than Mr. Campbell (hereinafter the "2006 bypass"). (Testimony of Jamil Campbell).

8. Mr. Campbell appealed the Boston Fire Department's decision to bypass him. The appeal was filed at the Civil Service Commission. (Testimony of Jamil Campbell; Exhibit 4).

9. In early 2007, while Mr. Campbell's bypass appeal was pending, the Boston Fire Department requested another eligibility list from HRD, this time for fifty-six full-time firefighters. (Testimony of Robert Moran; Exhibit 3).

10. On or about June 22, 2007, the Boston Fire Department received Certification List 270615 from HRD. The list contained the names of 262 candidates who were eligible for appointment to the Boston Fire Department. (Exhibit 3).

11. Mr. Campbell's name was eleventh on the list. (Exhibit 3).

12. The Boston Fire Department contacted the candidates on the eligibility list, including Mr. Campbell, to determine who would be willing to accept an appointment as a Boston firefighter. (Exhibit 3).

13. One hundred and fifty three candidates, including Mr. Campbell, indicated that they would accept a position as a firefighter with the Boston Fire Department. (Exhibit 3).

14. Mr. Campbell was ranked higher on the Civil Service eligibility list than 143 of the candidates who indicated that they were interested in the firefighter position. (Exhibit 3).

15. Every candidate on Certification List 270615 who was interested in a position with the Boston Fire Department had to fill out an application and sign a release authorizing the department to obtain records, including criminal and motor vehicle records, pertaining to the candidate. (Testimony of Robert Moran and Edward Scigliano; Exhibits 9, 12).

16. After a candidate signed the release and submitted an application, the Boston Fire Department's Field Services Office conducted a background investigation of

the candidate. The investigation included interviewing the candidate's employer and reviewing the candidate's criminal history and driving record. (Testimony of Robert Moran and Edward Scigliano).

17. Mr. Campbell submitted his application to the Boston Fire Department on or about June 25, 2007 (hereinafter the "2007 Application"). He signed the release authorization on or about July 4, 2007. (Exhibits 9, 12).

18. Captain Edward Scigliano, who was in charge of the Field Services Office, and Lieutenant Christopher Jerry conducted Mr. Campbell's background investigation. (Testimony of Edward Scigliano).

19. Among other things, Captain Scigliano spoke to an officer in the Boston Police Department who previously had investigated Mr. Campbell when he (Mr. Campbell) had applied to become a Boston police officer. (Testimony of Edward Scigliano).

20. Captain Scigliano also reviewed the Boston Police Department's file on Mr. Campbell, including police officers' notes and police statements on Mr. Campbell's different arrests. (Testimony of Edward Scigliano).

21. Captain Scigliano did not speak to Mr. Campbell during his investigation. (Testimony of Edward Scigliano).

22. The investigation into Mr. Campbell's background revealed adverse information about his driving, arrest, and employment histories. (Testimony of Edward Scigliano).

Driving Record

23. In January 1996, Mr. Campbell received a ticket for speeding. (Exhibit 4).
24. In May 1996, Mr. Campbell received a ticket for failing to stop at a traffic signal. (Exhibit 4).
25. In May 1996, Mr. Campbell's driver's license was suspended. (Exhibit 4).
26. In February 1997, Mr. Campbell's driver's license was suspended "indefinitely" because of "payment default." (Testimony of Edward Scigliano; Exhibits 4, 10).
27. In September 2000, Mr. Campbell's license was again suspended. (Exhibit 4).
28. In December 2000, Mr. Campbell's license was reinstated. (Exhibits 4, 10).
29. In November 2002, Mr. Campbell had a surchargeable accident. (Exhibit 10).
30. In May 2003, Mr. Campbell received a ticket for speeding. He admitted he was speeding. (Testimony of Jamil Campbell; Exhibits 10, 11).
31. In June 2003, Mr. Campbell's driver's license was suspended "indefinitely" because of "payment default." (Testimony of Edward Scigliano; Exhibits 4, 10).
32. In November 2003, Mr. Campbell received a ticket for improper license plates. The ticket was either for failing to attach a license plate in the correct location on his car, or for putting false license plates on his car. (Testimony of Edward Scigliano and Jamil Campbell; Exhibits 4, 10).

33. In November 2003, Mr. Campbell's license was suspended. (Exhibit 4).

34. In April 2004, Mr. Campbell's driver's license was suspended for failing to pay child support. (Testimony of Edward Scigliano; Exhibit 10).

35. In October 2005, Mr. Campbell's license was reinstated. (Exhibit 4).

36. At various times between 1996 and 2005, Mr. Campbell drove his car while his license was suspended. (Testimony of Jamil Campbell; Exhibit 11).

Arrest History

37. Mr. Campbell was arrested six times between 1995 and 2004. (Exhibits 4, 11).

38. In July 1995, Mr. Campbell was arrested for using a vehicle without authority. The charges subsequently were dismissed. (Exhibit 11).

39. In June 1996, Mr. Campbell was arrested for operating a vehicle with a suspended license. The charges subsequently were dismissed. (Exhibit 11).

40. In November 2000, Mr. Campbell was arrested for operating a vehicle with a suspended license. The charges subsequently were dismissed. (Exhibit 11).

41. In August 2003, Mr. Campbell was arrested for disorderly conduct, trespassing, and carrying a dangerous weapon. The weapon at issue was a box cutter. (Testimony of Jamil Campbell; Exhibit 11).

42. The charges against Mr. Campbell for carrying a dangerous weapon and trespassing later were dismissed, but he was ordered to pay court costs. The disorderly conduct charge later was dismissed. (Testimony of Edward Scigliano; Exhibit 11).

43. In January 2004, Mr. Campbell was arrested for operating a vehicle with a suspended license. Mr. Campbell was placed on probation and his case was continued without a finding. (Testimony of Edward Scigliano; Exhibit 11).

44. In March 2004, Mr. Campbell was arrested for disorderly conduct and threatening in connection with an altercation with his girlfriend. The charges subsequently were dismissed. (Testimony of Edward Scigliano and Jamil Campbell; Exhibit 11).

45. In August 2005, Mr. Campbell was cited for violating his probation. (Testimony of Edward Scigliano; Exhibit 11).

Employment History

46. In 2007, Boston Municipal Protective Services suspended Mr. Campbell twice for refusing to work forced overtime. The first suspension was for two days; the second was for three days. (Exhibits 6, 7).

47. It is against Boston Municipal Protective Services' rules and regulations to refuse to work forced overtime. (Exhibits 6, 7).

48. Mr. Campbell could not work the forced overtime because he had custody of his son and he could not get child care for him. (Testimony of Jamil Campbell).

The Show Cause Order

49. While Mr. Campbell's 2007 Application was pending before the Boston Fire Department, the Civil Service Commission scheduled a hearing on the fire department's 2006 bypass of Mr. Campbell. The hearing was scheduled for August 30, 2007. (Testimony of Jamil Campbell; Exhibit 4).

50. Mr. Campbell did not attend the hearing because his 2007 Application was pending before the Boston Fire Department. (Testimony of Jamil Campbell).

51. On August 31, 2007, the Civil Service Commission ordered Mr. Campbell to show cause why his appeal should not be dismissed as a result of his failure to attend the hearing the day before. (Exhibit 4).

52. Mr. Campbell did not respond to the order to show cause and his appeal was dismissed. (Exhibit 4).

The Boston Fire Department's Decision Not to Appoint Mr. Campbell

53. In late 2007, Roderick Fraser, the Fire Commissioner for the Boston Fire Department, appointed fifty-three candidates from Civil Service Certification List 270615 to be firefighters with the department. (Exhibit 2).

54. Forty-nine of the candidates whom Commissioner Fraser appointed were ranked lower on the Civil Service eligibility list than Mr. Campbell. (Exhibit 2).

55. On October 22, 2007, Commissioner Fraser advised HRD that he was bypassing Mr. Campbell for appointment as a firefighter. (Exhibit 4).

56. Commissioner Fraser cited four reasons for bypassing Mr. Campbell: his arrest history, driving record, employment discipline, and his failure to respond to the show cause order that the Civil Service Commission issued in connection with Mr. Campbell's 2006 bypass appeal. (Exhibit 4).

57. In the October 22, 2007, letter to HRD, Commissioner Fraser explained his reasons for bypassing Mr. Campbell as follows:

Mr. Campbell has demonstrated anti-social behavior by his poor employment history, and by his criminal record that he has disregard for the law, and therefore, he would be unable to

conform to the rules and regulations of the Boston Fire Department....

A firefighter's responsibilities require that, in addition to their suppression duties, they uphold fire prevention and arson laws. They may cite persons and initiate court actions based on the fire code and criminal violations related to fire and public safety.... [A] firefighter must be honest, trustworthy and dependable. It is essential that a firefighter follow all instructions specifically as directed. These personal qualities are crucial to a public safety position and cannot be compromised.

(Exhibit 4).

58. On November 27, 2007, Robert Moran, the Director of Human Resources for the Boston Fire Department, wrote to HRD and asked to have Mr. Campbell's name permanently removed from future Civil Service eligibility lists for appointment as a firefighter in the Boston Fire Department. (Exhibit 5).

59. On January 31, 2008, HRD permanently removed Mr. Campbell from the eligibility list for the position of firefighter in the Boston Fire Department, meaning that Mr. Campbell is no longer eligible to become a Boston firefighter. (Exhibit 5).

60. On February 26, 2008, Mr. Campbell appealed HRD's decision to accept the Boston Fire Department's reasons for bypassing him, as well as HRD's decision to remove him from the eligibility list. (Exhibit 1).

61. Firefighters in the Boston Fire Department must be able to safely drive fire trucks that weigh over 60,000 pounds. As a result, Boston firefighters need to be safe, responsible drivers with good driving skills. (Testimony of Edward Scigliano).

62. The Boston Fire Department requires every firefighter to have a valid driver's license because, even if it is not part of his or her regular duties, every firefighter must be able to step in at a moment's notice to operate the department's fire trucks and other equipment. (Testimony of Edward Scigliano).

63. A firefighter in the Boston Fire Department can be disciplined or fired for driving with a suspended license. (Testimony of Robert Moran).

64. A Boston firefighter can be disciplined or fired for carrying a dangerous weapon. (Testimony of Robert Moran).

DISCUSSION

After reviewing the testimony and evidence presented in this appeal, I recommend that Mr. Campbell's appeal be denied. The role of this tribunal in a bypass appeal is to determine "whether the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority." *City of Cambridge v. Civil Serv. Comm'n*, 43 Mass. App. Ct. 300, 304 (1997). "'Justified' in the context of review, means '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.'" *Id.* at 304 (citing *Selectmen of Wakefield v. Judge of First Dist. Ct. of East Middlesex*, 262 Mass. 477, 482 (1928)). "In the task of selecting public employees of skill and integrity, moreover, appointing authorities are invested with broad discretion." *Id.* at 304-05. This tribunal cannot "substitute its judgment about a valid exercise of discretion based on merit or policy considerations by an appointing authority." *Id.* at 304.

I. *The Decision to Bypass Mr. Campbell.*

The Boston Fire Department bypassed Mr. Campbell for four reasons: (1) his arrest history; (2) his poor driving record; (3) the two suspensions from work; and (4) his failure to respond to the Civil Service Commission's show cause order. The Boston Fire Department has demonstrated reasonable justification for bypassing Mr. Campbell.

First, for the purpose of civil service selection, a candidate's history of arrests provides a reasonable basis for a bypass even where the charges do not result in convictions. *See, e.g., Thames v. Boston Police Dept.*, 17 MCSR 125, 127 (2004); *Frangie v. Boston Police Dept.*, 7 MCSR 252, 253 (1994) (although all criminal charges against the candidate had been dismissed, "[t]he existence of numerous Police Department incident reports is ... a fact which cannot be ignored"). This is especially true when the applicant is seeking appointment to a public safety position. *Id.* For instance, Boston firefighters are charged with upholding fire prevention and arson laws. They may cite persons and initiate court actions based on fire code and criminal violations related to fire and public safety.

In this case, Mr. Campbell was arraigned six times between 1995 and 2004 for such charges as disorderly conduct, carrying a dangerous weapon, trespassing and operating with a suspended license. While the charges were dismissed, in at least one instance Mr. Campbell was required to pay court costs and in another he was placed on probation, which he violated in 2005. It was reasonable for the Boston Fire Department to consider these facts when assessing his fitness for a public safety position. *See, e.g., Soares v. Brockton Police Dept.*, 14 MCSR 109 (2001) (appointing authority was justified in bypassing candidate based on his arrest record, even though the candidate had never been convicted of a crime).

Second, Mr. Campbell's driving record also provides reasonable justification for bypassing him. Mr. Campbell's driver's license was suspended six times between 1996 and 2004. Between 1995 and 2004, moreover, Mr. Campbell was arrested three times for driving with a suspended license and once for operating a vehicle without authority.

During the same period, he also received citations for speeding, failing to stop and attaching improper license plates to his vehicle.

At the hearing, Mr. Campbell had an explanation for each suspension, arrest and citation: he did not know his license had been suspended because he had moved; he paid the speeding ticket but the Registry of Motor Vehicles never received it; he did have permission to drive the car at issue; the plates were legitimate, but were in the car window; and so on. While it certainly is possible that some of the incidents were not Mr. Campbell's fault, it defies credulity that he was blameless every time. Moreover, it was Mr. Campbell's responsibility to notify the Registry when he changed addresses. Thus, even if Mr. Campbell never received *any* of the suspension notices, he still is responsible for driving with a suspended license.

Firefighters in the Boston Fire Department Fire Department must be able to safely drive fire trucks that weigh over 60,000 pounds. As a result, Boston firefighters need to be safe, responsible drivers with good driving skills. Moreover, every firefighter must have a current driver's license because, even if it is not part of his or her regular duties, every firefighter must be able to step in and operate the department's fire equipment.

Mr. Campbell's driving record seriously calls into question his ability to operate fire trucks safely and with a valid license. Consequently, it was reasonable for the Boston Fire Department to bypass him based on his driving record. *See, e.g., Ovoian v. Town of Watertown*, 20 MCSR 507 (2007) (poor driving history was a sufficient basis for bypassing a candidate for a position as a firefighter); *Driscoll v. Boston Police Dept.*, 20 MCSR 477 (2007) (candidate who was "likeable" and had a long military record was properly bypassed due to his driving history).

Finally, Mr. Campbell's employment history and failure to respond to an order to show cause are not, standing by themselves, reasonable justification for bypassing Mr. Campbell. For instance, Mr. Campbell has worked as a special police officer since November 2005. He is assigned to Boston City Hall, one of Boston's most important public buildings. When Mr. Campbell applied to be a firefighter in 2006, moreover, his then-supervisor gave him a letter of recommendation. The only adverse work incidents were two suspensions for failing to work forced overtime when he could not get daycare for his son. This hardly constitutes poor work performance.

Considering Mr. Campbell's work history and his failure to respond to the administrative order in conjunction with his arrest history and driving record, however, the Boston Fire Department had ample justification for bypassing him. *See, e.g., Brown v. Boston Fire Department*, 19 MCSR 119 (2006) (fire department was justified in bypassing a candidate with prior arrests, negative employment references and a poor driving record); *Dones v. Framingham Fire Dept.*, 10 MCSR 169 (1997) (since firefighters are public safety officers, fire department had just cause to bypass candidate with criminal record and sparse work history).

II. *Removal from the Eligibility List.*

Under Rule 9(2) of the Personnel Administrator Rules, an appointing authority may ask HRD to permanently remove a candidate from eligibility for appointment to a specific civil service position, such as an appointment to be a Boston firefighter. Rule 9(2) states, in pertinent part:

If an appointing authority concludes the appointment of a person whose name has been certified to it would be detrimental to the public interest, it may submit to the administrator a written statement **giving in detail the specific reasons substantiating**

such a conclusion. The administrator shall review each such statement, and if he agrees, he shall remove the name of such person from the certification and shall not again certify the name of such person to such appointing authority for appointment to such position.

Personnel Administrator Rules, Rule 9(2) (emphasis added).

On November 27, 2007, Robert Moran, the Human Resources Director for the Boston Fire Department, submitted the following letter to HRD:

We are requesting a PAR. 09 removal for Jamil J. Campbell from future certifications, due to the fact that Mr. Campbell has demonstrated anti-social behavior by his criminal record and he has disregard for the law. In addition, Mr. Campbell has demonstrated by [his] current employment history that he would be unable to conform to the Boston Fire Department's rules and regulations.

If there are any further documents that are needed, please let me know and we will provide them to you.

Exhibit 5. This letter does not comply with the requirement that the appointing authority provide a written statement with specific, detailed reasons substantiating the need to remove a candidate from the eligibility list. *See* Personnel Administrator Rules, Rule 9(2).

Nevertheless, it is clear that when HRD reviewed the Boston Fire Department's request, it also considered the department's October 22, 2007, letter outlining the reasons for bypassing Mr. Campbell. *See* Exhibit 5 (HRD letter referencing both Mr. Campbell's bypass and the request to remove Mr. Campbell from the eligibility list). The Boston Fire Department's October 22, 2007, bypass letter was four pages long and extremely detailed; it listed Mr. Campbell's arrest history and driving record, discussed his two work suspensions, described his failure to respond to the show cause order, and then explained in detail its reasons for bypassing Mr. Campbell. *See* Exhibit 4. Taken

together, the fire department's two letters (dated October 22, 2007, and November 27, 2007, respectively) meet with the requirements of Rule 9(2).

Turning to the merits of HRD's decision, the Boston Fire Department has shown reasonable justification for permanently removing Mr. Campbell from the Boston firefighter eligibility list. Mr. Campbell was courteous and well-spoken throughout the hearing and he sincerely wants a job in public safety. Nevertheless, Mr. Campbell's arrest and driving histories demonstrate that he has difficulty complying with the law and that he is not a safe, responsible driver. Mr. Campbell's license also has been suspended repeatedly, sometimes for several months at a time, during which times Mr. Campbell continued to drive. The Civil Service Commission's analysis in *Kiricoples v. Salem Police Department*, 10 MCSR 38 (1997), applies here:

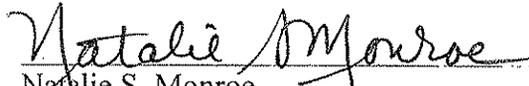
[The] Appellant is not an appropriate candidate for [a] public safety position ... in view of [his] disregard for the law and authority, particularly by his continuing to drive his motor vehicle for months while his license was suspended. There is no evidence of the Appointing Authority acting in any arbitrary or capricious manner, nor are the Appointing Authority's reasons to remove [the] Appellant from certification a pretext for other, impermissible reasons.

Id. at 39.

CONCLUSION AND RECOMMENDATION

Based on the foregoing, I recommend that Mr. Campbell's appeal be denied. The Boston Fire Department has sustained its burden of proving that there was reasonable justification both for bypassing Mr. Campbell and for permanently removing him from the eligibility list for appointment to the position of a firefighter in the Boston Fire Department.

DIVISION OF ADMINISTRATIVE LAW APPEALS


Natalie S. Monroe
Administrative Magistrate

Dated: **JUN 05 2009**