

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

JOSEPH MINOIE,
Appellant

v.

Case No.: G1-13-203

TOWN OF BRAINTREE,
Respondent

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).

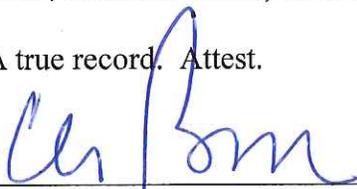
Pursuant to 801 CMR 1.01 (11) (c), the Magistrate issued the attached Tentative Decision to the Commission. The parties had thirty (30) days to provide written objections to the Commission. No written objections were received.

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 Town of Braintree to bypass the Appellant for the position of police officer is affirmed and Mr. Minoei's appeal under Docket No. G1-13-203 is hereby *denied*.

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell and Stein, Commissioners) on March 20, 2014.

A true record. Attest.



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:
Joseph Minoie (Appellant)
Brian Maser, Esq. (for Respondent)
Richard C. Heidlage, Esq. (Chief Administrative Magistrate, DALA)

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals
One Congress Street, 11th Floor
Boston, MA 02114
(617) 626-7200
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Docket Nos.: D-13-203, CS-13-564

JOSEPH M. MINOIE,
Petitioner

v.

TOWN OF BRAINTREE,
Respondent

Appearance for Petitioner:

Pro se

Appearance for Respondent:

Brian M. Maser, Esq.
Kopelman and Paige, P.C.
101 Arch Street
Boston, MA 02110

Administrative Magistrate:

Angela McConney Scheepers, Esq.

SUMMARY OF TENTATIVE DECISION

The Town of Braintree had reasonable justification to bypass the Appellant for original appointment to the position of permanent full-time police officer. The Appellant failed to respond truthfully and completely to the questions in the application packet, failed to disclose an incident of domestic violence and failed to disclose two restraining orders. I therefore recommend that the Civil Service Commission dismiss his appeal.

TENTATIVE DECISION

INTRODUCTION

The Appellant, Joseph M. Minoie, pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (Commission) on September 10, 2013, claiming that the Town of Braintree (Town or appointing authority) did not have reasonable justification to bypass him for the position of permanent full-time police officer.

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CIVIL SERVICE COMMISSION

The Appellant filed a timely appeal. A pre-hearing conference was held on October 1, 2013 at the offices of the Commission, One Ashburton Place, Room 503, Boston, MA 02108. On November 15, 2013, pursuant to 801 CMR 1.01(11)(c), a Magistrate from the Division of Administrative Law Appeals (DALA) conducted a full hearing at the offices of DALA, One Congress Street, Boston, MA 02114, in accordance with the Formal Rules of the Standard Rules of Practice and Procedure. 801 CMR 1.01.

The Appellant testified on his own behalf. The Respondent called Sergeant Timothy Cohoon, Sergeant Richard C. Curtin and Police Chief Russell W. Jenkins. The witnesses were not sequestered.

The hearing was digitally recorded. Fourteen exhibits were admitted into evidence. The record was left open in order for the Town to file a copy of the video recording of the Appellant's interview. I received the DVD of the Appellant's interview on November 22, 2013 and marked it as Exhibit 15. The Respondent submitted its post-hearing brief on December 20, 2013. The Appellant submitted his post-hearing brief on December 31, 2013, whereupon the administrative record closed.

FINDINGS OF FACT

Based on the documents entered into evidence and the testimony of the witnesses, I make the following findings of fact:

A. Background

1. The Appellant, Joseph M. Minoie, is a resident of the Town of Braintree.

(Testimony of the Appellant.)

2. The Appellant graduated from Braintree High School in 2002. He attended Universal Technical Institute from 2007 to 2008. (Exhibits 3 and 5; Testimony of the Appellant.)

3. The Appellant entered the United States Army in 2003 and served three years, then served in the Reserves until January 2011. He served in Korea for one year and served in Iraq for eight months. (Exhibits 2, 3 and 13.)

B. First Bypass

4. After requesting a certification list from the state Human Resources Division (HRD), it is Department practice that Sergeant Timothy Cohoon hold a meeting with all the candidates to explain the application process. The candidates are given an application packet including an employment application form, a supplemental application form, a personal history statement, and releases for a background check. The candidates are advised that they must answer all questions and that any dishonesty is grounds for disqualification. (Testimony of Sgt. Cohoon.)

5. The Appellant took the Civil Service Exam in April 2011 and received a score of 98. (Exhibit 12.)

6. The Appellant first applied to the Braintree Police Department (Department) when he submitted his application packet on August 30, 2011. (Exhibits 4 and 5.)

7. Sgt. Cohoon assigned Sergeant Richard C. Curtin to conduct the Appellant's background investigation. (Exhibit 3; Testimony of Sgt. Cohoon, Testimony of Sgt. Curtin.)

8. The Appellant responded to Question 14 of the employment application that his only residence had been Braintree, MA. He did not include residences from his service in the Army. Question 46 on the Supplemental Application further requested all police contacts and

residences not provided in the employment application or during the interview. The Appellant responded “N/A.” (Exhibits 1 and 3; Testimony of Sgt. Curtin.)

9. For every candidate’s residence, Sgt. Curtin contacted the local police, local sheriff’s department and that state’s State Police to check for interaction that did not result in criminal charges – and thus would not appear on a Criminal Offender Registry Information check or national “Triple I” check. Because of the Appellant’s truncated responses in the application packet, Sgt. Curtin was unable to complete this part of the investigation. (Exhibit 3; Testimony of Sgt. Curtin.)

10. The Appellant responded to Question 47 on the Supplemental Application that he had never been subject to a restraining order. (*See supra* Findings of Fact 12-15; Exhibits 1, 3 and 5; Testimony of Sgt. Curtin, Testimony of Sgt. Cohoon.)

11. The Appellant had submitted his final divorce decree to the Department as part of his application packet. In the decree, the Appellant agreed that his involvement in his child’s life was “not [] in the best interest of the child” and “would endanger the physical or emotional welfare of the child.” He also agreed to turn over any and all photographs of the child that were in his possession or control. (Exhibits 1 and 10.)

12. As part of the background investigation, Sgt. Curtin attempted to reach the Appellant’s ex-wife. He was unsuccessful, but was able to reach her divorce attorney. The attorney advised Sgt. Curtin that temporary restraining orders had issued as part of the couple’s divorce proceedings in Bexar County, TX, with the Appellant as Respondent. The attorney further informed the sergeant of a domestic violence incident in Fayetteville, NC. (Exhibits 6, 7, 8 and 9.)

13. Sgt. Curtin then contacted the District Court of the 73rd Judicial District, Bexar County, Texas for copies of the temporary restraining orders. The first temporary restraining order, dated January 23, 2009, immediately restrained the Appellant/Respondent from certain actions including:

1. Communicating with the Petitioner in person, by telephone, or in writing in a harassing, obscene and/or annoying manner;
2. Interfering in any way with Petitioner's use and benefit of the residence ..., Bexar County, Texas ..., or excluding or attempting to exclude Petitioner therefrom;
3. Committing family violence;
4. Committing an act against Petitioner that is intended to result in physical harm, bodily injury, assault, or sexual assault;
5. Making a threat that reasonably places Petitioner in fear of imminent physical harm, bodily injury, assault, or sexual assault;
6. Threatening Petitioner, in person, by telephone, or in writing with unlawful conduct;
7. Intentionally, knowingly, or recklessly causing bodily injury to Petitioner; ...
36. Hiding or secreting the child the subject of this suit from Petitioner;
37. Molesting or disturbing the peace of the child the subject of this suit;
38. Removing the child the subject of this suit from Bexar County, Texas; and
39. Changing the child's residence from ..., Bexar County, Texas

(Exhibit 7.)

14. The January 23, 2009 temporary restraining order also ordered the Appellant to appear at a February 6, 2009 hearing in order to determine certain issues during the pendency of the divorce case. Some of the those issues were whether the ex-wife/Petitioner should be awarded the use and possession of the marital residence, including furniture and furnishings, and whether the Appellant/Respondent should be enjoined from entering the residence; and whether the temporary restraining order should be made a temporary injunction during the pendency of the divorce case. (Exhibits 7 and 8.)

15. On February 6, 2009, another temporary restraining order issued, ordering the Appellant to refrain from the same actions as the previous order. The February 6, 2009

temporary restraining order also ordered the Appellant to appear at a February 17, 2009 hearing in order to determine certain issues during the pendency of the divorce case. (*See supra* Finding of Fact 9; Exhibit 8.)

16. Sgt. Curtin contacted the Fayetteville Police Department and obtained a copy of the police report of the domestic violence incident. The police report showed that on April 15, 2009 the Appellant and his ex-wife were staying in a motel in Fayetteville, NC. Around 12:21 a.m., the Appellant struck his ex-wife in the head with his hand, almost knocking her down. She then called motel security and asked for police assistance. When Fayetteville Police Officer A. R. Sinclair arrived on scene, he observed very minor redness on the ex-wife's left ear. The ex-wife informed the officer that she wanted the incident documented because she and the Appellant were in the midst of a separation and custody dispute. Officer Sinclair advised the ex-wife of her right to press charges, advised the Appellant to find other lodgings for the night and advised both parties to have no further contact with each other for the rest of the evening. The Appellant said that he would return to his base, and the ex-wife said that she would leave for Texas in the morning. (*See supra* Finding of Fact 9; Exhibit 6; Testimony of Sgt. Cohoon.)

17. Sgt. Curtin also reviewed medical records that showed that on the day of the domestic incident, the ex-wife sought medical attention for a head injury, neck injury and earache in her left ear. She was prescribed narcotics for pain management. (Exhibit 9.)

18. The Bexar County courthouse also sent Sgt. Curtin a copy of the Agreed Final Decree of Divorce, which was signed and dated March 8, 2010. The judge granted the Appellant's ex-wife sole managing conservatorship of the couple's minor daughter after finding that the Appellant's parental possession or access to the child would endanger the physical or emotional welfare of the child. The judge further ordered the Appellant to turn over all

photographs of the child, originals and copies, to the ex-wife via her attorney. (Exhibit 10; Testimony of Chief Jenkins, Testimony of Sgt. Curtin, Testimony of Sgt. Cohoon.)

19. Sgt. Curtin informed Sgt. Cohoon of the Appellant's omissions of the restraining order, the incident of domestic violence and the omission of his Texas and North Carolina addresses. Sgt. Cohoon then reported Sgt. Curtin's findings to the then Deputy Chief, now Chief Russell W. Jenkins. (Testimony of Sgt. Curtin, Testimony of Sgt. Cohoon.)

20. After conferring with Sergeants Cohoon and Curtin about the omissions in the Appellant's application packet, Chief Jenkins ordered Sgt. Curtin to end the background check, but kept the Appellant on the candidate interview list. (Exhibit 14; Testimony of Sgt. Curtin, Testimony of Sgt. Cohoon.)

21. The members of the interview panel were Chief Jenkins, then-Chief Paul Frazier, Lieutenant Karen MacAleese, Lieutenant Michael Moschella, Sgt. Cohoon, and Officer Richard Clifford. (Testimony of Chief Jenkins, Testimony of Sgt. Curtin, Testimony of Sgt. Cohoon.)

22. At his interview, the panel questioned the Appellant about the domestic violence omissions and the restraining order omissions in his application packet. The Appellant attributed the incidents to his "vindictive" ex-wife. He also denied knowledge of the January 23, 2009 and February 6, 2009 temporary restraining orders although they were part of the divorce proceedings, stating that he was deployed in Iraq at the time. When questioned about the language in his March 8, 2010 divorce decree, the Appellant stated that his imminent deployment caused him to sign a document that acknowledged that his physical presence was not in the best interests of his biological own child. (Exhibit 10; Testimony of the Appellant.)

23. According to the Appellant's Army orders, he was not deployed until April 13, 2009, more than two months after the restraining orders were issued. (Exhibit 13; Testimony of Chief Jenkins, Testimony of Sgt. Curtin, Testimony of Sgt. Cohoon.)

24. When the interview panel inquired about his failure to list the April 15, 2009 domestic violence incident in Fayetteville, NC, the Appellant did not answer. (Testimony of Chief Jenkins.)

25. The interview panel concluded that not only had the Appellant interviewed badly, but that he was also untruthful and that the omissions from his application packet were intentional. The panel did not recommend him to the chief for employment. (Exhibit 15; Testimony of Chief Jenkins.)

26. In December 2012, the Town sought a certification from the state Human Resources Division (HRD) for original appointments to the position of police officer. (Exhibit 12.)

27. The Appellant's name appeared on the certified list, and he signed that he was willing to accept appointment. The Town bypassed him. (Exhibit 2; Testimony of the Appellant.)

28. The Appellant did not appeal his bypass to the Commission. (Exhibit 2; Testimony of the Appellant.)

C. Instant Bypass

29. In January 2013, the Town sought a certification from the state Human Resources Division (HRD) for original appointments to the position of police officer. (Exhibit 12.)

30. Due to issues raised during the course of his background investigation and his previous interview, the Department bypassed the Appellant again in a letter dated July 12, 2013. (Exhibit 1.)

31. All of the chosen candidates had college degrees, one had a graduate degree. None of them had a history of domestic violence or was the subject of a restraining order. (Exhibit 1; Testimony of Chief Jenkins.)

32. On September 12, 2013, the Appellant filed an appeal with the Commission. (Exhibit 11.)

CONCLUSION AND ORDER

A. Applicable Legal Standards

The role of the Civil Service Commission 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.” *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 304 (1997). Reasonable justification means the Appointing Authority’s actions were based on adequate reasons supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law. *Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex*, 262 Mass. 477, 482 (1928); *Commissioners of Civ. Serv. v. Municipal Ct. of the City of Boston*, 359 Mass. 214 (1971). G.L. c. 31, § 2(b) requires that bypass cases be determined by a preponderance of the evidence. A “preponderance of the evidence test requires the Commission to determine whether, on the basis of the evidence before it, the Appointing Authority has established that the reasons assigned for the bypass of an Appellant were more probably than not sound and sufficient.” *Mayor of Revere v. Civil Serv. Comm’n*, 31 Mass. App. Ct. 315 (1991).

Appointing Authorities are granted wide discretion when choosing individuals from a certified list of eligible candidates on a civil service list, especially when choosing candidates to be equipped with a gun and a badge and entrusted to serve as police officers in the most dangerous of situations. The issue for the commission is “not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the commission, there was 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 (1983); see *Commissioners of Civ. Serv. v. Municipal Ct. of Boston*, 369 Mass. 84, 86 (1975) and *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-28 (2003).

The Commission owes “substantial deference” to the appointing authority’s exercise of judgment in determining whether there was “reasonable justification” shown. Cities and towns have wide discretion in selecting public employees, and absent proof that they acted unreasonably, may not be forced to take the risk of hiring unsuitable candidates. *Tewksbury v. Massachusetts Civ. Serv. Comm’n*, No. 10-657-G, (Suff. Sup. Ct. August 30, 2012) (Superior Court found that the town acted reasonably; Commission erred when it reversed DALA Recommended Decision and improperly substituted its judgment).¹ An appointing authority “should be able to enjoy more freedom in deciding whether to appoint someone as a new ... officer than in disciplining an existing tenured one.” *Attleboro v. Massachusetts Civ. Serv. Comm’n et al.*,² No. 2011-734, (Bristol Sup. Ct. Nov. 5, 2012), citing *Beverly* at 191.

¹ *Cyrus v. Tewksbury*, Docket Nos. G1-08-107, CS-08-539, Recommended Decision, (June 5, 2009), *rev’d by Final Decision* 23 MCSR 58 (2010).

² William Dunn.

The Commission's role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority's actions. *Beverly v. Civil Serv. Comm'n*, 78 Mass. App. Ct. 182, 189, 190-91 (2010), citing *Falmouth v. Civil Serv. Comm'n*, 447 Mass. 814, 824-26 (2006). See also *Methuen v. Solomon*, No. 10-01813-D, (Essex Sup. Ct. July 26, 2012).

B. Reasonable Justification for Bypassing the Appellant

The Town was reasonably justified in bypassing the Appellant because he was untruthful or made purposeful omissions in the application packet in regard to his residential history, his history of domestic violence, and having been the subject of restraining orders. I find that the Appellant failed to meet the Town's standards required in order to become a police officer.

Untruthfulness is a serious concern, and the Department is justly concerned with candidates' ability to tell the truth consistently. See *Beverly* at 189-190; *Konamah v. Lowell*, Docket Nos. G1-10-131, CS-11-34, Recommended Decision, (January 12, 2012) adopted by *Final Decision* 25 MCSR 73 (2012) (candidate's failure to complete application truthfully and to disclose actual role in business gave appointing authority reason for bypass); *Modig v. Worcester Police Dep't*, 21 MCSR 78, 82 (2008) (police officer candidate's failure to respond accurately to a question about his prior employment on a personal history questionnaire was grounds for bypass); *Escobar v. Boston*, 21 MCSR 168 (2008) (candidate's untruthfulness in another police department's application is grounds for bypass); *Moran v. Auburn*, Docket Nos. G1-08-42, CS-08-317, Recommended Decision, (June 5, 2009), adopted by *Final Decision* 23 MCSR 233 (2010) (Town was justified in bypassing the Appellant for multiple reasons including misrepresentations about his extensive driving history and past criminal behavior, including assault and battery and OUI).

Appointing Authorities are justified in bypassing candidates who are perpetrators of domestic violence incidents, whether or not those incidents result in arrest or conviction. See *Torres v. Boston Police Dep't*, 20 MCSR 327 (2007) (bypass of candidate with multiple incidents of domestic violence upheld); *Allen v. Boston Police Dep't*, 21 MCSR 45 (2008) (bypass upheld where background check revealed three charges of domestic violence); *Dunn Cooper v. Boston Police Dep't*, Docket Nos. G1-07-333, CS-08-54, Recommended Decision, (April 30, 2008), *adopted by Final Decision* 21 MCSR 417 (2008) (bypass of candidate with two restraining orders and several instances of domestic disputes upheld); *Lee v. Boston Police Dep't*, 22 MCSR 239 (2009), *Boston Police Dep't v. Lee*, No. 2008-1988-E, (Suff. Sup. Ct. Oct. 28, 2010) (Superior Court vacated Commission order, finding that appointing authority had reasonable justification for bypassing candidate with conviction for domestic assault and battery and CWOFF for 209A violation); *Woolf v. Randolph*, Docket Nos. G1-09-36, CS-09-125, Recommended Decision, (January 4, 2010), *reversed by Final Decision*, 23 MCSR 209 (2010), *Randolph v. Woolf*, No. 2010-02061-E, (Suff. Sup. Ct. Apr. 28, 2011), *aff'd*, *Randolph v. Civil Serv. Comm'n et al.*,³ No. 11-P-998 (Mass. App. Ct. March 22, 2012) (Appeals Court found that the Commission erred when it reversed the DALA decision upholding the bypass of candidate because of his lack of truth and candor in regard to his violation of an abuse prevention order).

The Appellant failed to disclose that he was the subject of two restraining orders that were issued as part of his divorce proceedings on January 23, 2009 and February 6, 2009. The Appellant testified that he was unaware of the restraining orders because they issued while he was deployed to Iraq. Upon cross examination, however, he admitted that the orders were issued in January and February 2009 but that he was not deployed until April 2009.

³ Darren Woolf.

While those restraining orders were presumably in effect, the Appellant assaulted his ex-wife on April 15, 2009 in a motel room in Fayetteville, NC. The Appellant failed to disclose this police contact in his application materials. The Appellant testified that he did not inform the Department of the April 19, 2009 domestic incident because he did not equate it with "police contact." However, the police responded to the motel and a police report as filed. The ex-wife later sought medical attention that same day. When the interview panel asked about his failure to disclose the domestic violence incident, he did not answer. In his testimony before the Commission, the Appellant said that on the evening of April 19, 2009, the Fayetteville Police thought his ex-wife was "crazy."

The Department had further cause to question the Appellant's veracity given his failure to list his prior residences. Although he had served in the military outside of Massachusetts and abroad, the Appellant listed Braintree, MA as his sole residence.

The Appellant was not a credible witness and maintained an angry demeanor throughout his testimony. He testified that he had passed three civil service exams, had applied to the Department four times, and was "forced" by the instant bypass to appeal to the Commission. The Appellant accused the Department of mistreating him during the hiring process and "blackballing" him.

Notwithstanding his lack of higher education, the Appellant argued that he was the best candidate for the position and that "there was no one better than me." He maintained that his military service was more important than a college degree. The Appellant did not appear to grasp that the Department wanted a professional police force and that the Department permissibly followed a policy of preferring candidates who had earned college degrees. It is well settled that an appointing authority has met its burden if the bypassed candidate did not possess a

similar educational background as the selected candidate(s). *See Tuohey v. Barnstable Police Dep't*, 11 MCSR 50, 51 (1998) (appointing authority improperly bypassed candidate with “an impeccable academic history which included a Bachelor’s as well as a Master’s Degree in criminal justice”).

The Appellant has not pursued formal education beyond high school. I find that the educational achievement of the selected candidates is a sound and sufficient reason for bypassing the Appellant.

The Appellant argued that he found out about the restraining orders for the first time during the hiring process, even though they were part of his divorce proceedings. The Appellant did not seem to realize that a candidate with a history of domestic violence and restraining orders would not be a desirable candidate for police officer. He attempted to place all the blame on his “vindictive” ex-wife, although the Department’s knowledge came from the ex-wife’s attorney, the court and police records. The Appellant testified that the couple had a civil wedding and never lived together.

The interview panel was concerned about one of the terms of the divorce decree in particular, the order that the Appellant return all originals and copies of photographs of the child to the ex-wife via her attorney. The chief testified that in his thirty years of policing he had never heard of such an order. Lt. MacAleese, a member of the interview panel and the Department’s highest ranking sexual assault and domestic violence superior officer, had never seen that provision before. This concern, in addition to all the previous reasons, further disqualified the Appellant in the interview panel’s eyes.

An Appointing Authority is well within its rights to take disciplinary action when a police officer has “a demonstrated willingness to fudge the truth in exigent circumstances” because

“[p]olice work frequently calls upon officers to speak the truth when doing so might put into question a search or might embarrass a fellow officer.” *See Falmouth v. Civil Service Comm’n*, 61 Mass. App. Ct. 796, 801 (2004). Likewise, an Appointing Authority is well within its rights to bypass an individual for fudging the truth as part of an application process for the position of police officer. *See Escobar v. Boston Police Dep’t*, G1-05-214 (2008).

Based on the testimony of the Town’s witnesses, the testimony of the Appellant and the documentary evidence entered as part of the record in this case, it is clear that the Appellant misrepresented material aspects of his past when he filed his application for employment with the Braintree Police Department.

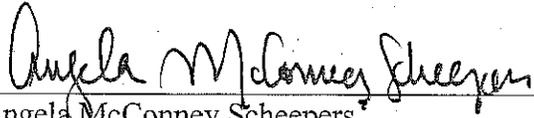
Given the fact that the Appellant was involved in a domestic violence incident *after* he was party to two temporary restraining orders, a Department decision to bypass him solely for this reason would have been well supported by a preponderance of the evidence. Because police officers often respond to domestic violence calls, it would be irresponsible of the Braintree Police Department to hire such and individual. *See Alfred v. Boston Police Dep’t*, 20 MCSR 281 (2007).

There is no evidence that the City’s decision was based on political considerations, favoritism or bias. Thus the City’s decision to bypass the Appellant is “not subject to correction by the Commission.” *Cambridge*, 43 Mass. App. Ct. at 305.

Based on the preponderance of credible evidence presented at the hearing, I conclude that the town of Braintree was reasonably justified in bypassing Joseph M. Minoie. Accordingly, I recommend that the appeal be dismissed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

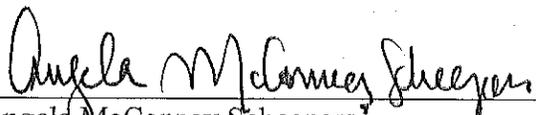
A handwritten signature in cursive script, reading "Angela McConney Scheepers", is written over a horizontal line.

Angela McConney Scheepers
Administrative Magistrate

DATED:

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS



Angela McConney Scheepers
Administrative Magistrate

DATED: **JAN 24 2014**