

Commonwealth of Massachusetts  
County of Plymouth  
The Superior Court

CIVIL DOCKET#: PLCV2008-00320-A

RE: Weinrebe v Civil Service Commission et al

TO: Robert L Quinan Jr, Esquire  
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COMMONWEALTH OF MASS  
CIVIL SERVICE COMMISSION

NOTICE OF DOCKET ENTRY

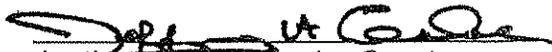
You are hereby notified that on 09/17/2009 the following entry was made on the above referenced docket:

**MEMORANDUM OF DECISION AND ORDER on Plaintiff's Motion for Judgment on the pleadings - DENIED. The decision of the Civil Service Commission is AFFIRMED (Jeffrey A. Locke, Justice). Copies mailed 9/17/09.**  
Dated at Plymouth, Massachusetts this 17th day of September, 2009.

After hearing and upon review of the administrative record, the plaintiff has not demonstrated that a decision of the Massachusetts Civil Service Commission upholding a termination decision of the Department of Correction, was unsupported by substantial evidence, arbitrary or capricious, or based on errors of law. The decision of the Commission by its hearing officer, contains 25 pages of factual findings flowing from three days of evidence and a review of 62 exhibits. For the most part the plaintiff's complaint is that the hearing officer credited certain evidence in disregard of other testimony or exhibits. Assessing the credibility of witnesses and evidence is a function of the agency. See Catrone v. State Racing Commission, 17 Mass. App. Ct. 484, 486 (1984). A reviewing court may not substitute its judgment for that of the agency in weighing the credibility of evidence. Connolly v. Suffolk County Sheriff's Dept., 62 Mass. App. Ct. 187, 192-3 (2004). Read as a whole, the findings of the hearing officer, and the conclusion that they support a decision to terminate employment, is based on substantial evidence and does not involve any legal error.

ORDER

Plaintiff's motion for judgment on the pleadings is DENIED. The decision of the Civil Service Commission is AFFIRMED.



COMMISSION, et al,  
Defendants

PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS