

COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION

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

VERA DUNN COOPER,
Appellant

v.

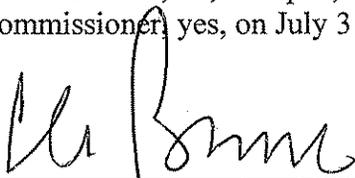
BOSTON POLICE
DEPARTMENT,
Respondent

Case No.: G1-07-333

DECISION

After careful review and consideration, the Civil Service Commission voted at an executive session on July 31, 2008 to acknowledge receipt of the report of the Administrative Law Magistrate dated April 30, 2008. The commission received written objections from the Appellant on May 7, 2008. 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 *dismissed* by a 4-1 vote of the Commission.

By vote of the Civil Service Commission (Bowman, Chairman, yes; Henderson, Commissioner, no; Marquis, Commissioner, yes; Stein, Commissioner, yes; and Taylor, Commissioner, yes, on July 31, 2008.



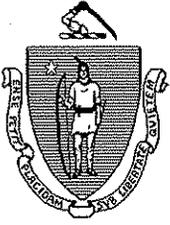
Christopher C. Bowman
Chairman

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:

Brian Simoneau, Esq. (for Appellant)
Tara L. Chisholm, Esq. (for Appointing Authority)
Shelly Taylor, Esq. (DALA)



COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals

98 North Washington Street, 4th Floor

Boston, MA 02114

www.mass.gov/dala

Tel: 617-727-7060
Fax: 617-727-7248

April 30, 2008

Christopher Bowman, Chairman
Civil Service Commission
One Ashburton Place
Boston, MA 02108

Brian Simoneau, Esq.
161 Worcester Road, Suite 200
Framingham, MA 01701

Tara L. Chisholm, Esq.
Boston Police Department
Office of the Legal Advisor
One Schroeder Plaza
Boston, MA 02120

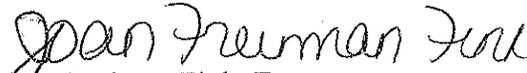
RE: *Vera Dunn Cooper v. Boston Police Department*, G1-07-~~122~~ CS-08-54

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Dear Chairman Bowman, Attorneys Simoneau & Chisholm:

Enclosed please find the Recommended Decision that is being issued today. The parties are advised that pursuant to 801 CMR 1.01(11)(c), they have thirty (30) days to file written objections to the decision to the Civil Service Commission which may be accompanied by supporting briefs.

Very truly yours,


Joan Freiman Fink, Esq.
Administrative Magistrate

Encl.

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2008 MAY -1 A 9: 56
COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals

Vera Dunn Cooper,
Appellant

Docket No. G1-07-122
DALA No. CS-08-54

v.

Boston Police Department,
Appointing Authority

Appearance for Appellant:

Brian E. Simoneau, Esq.
161 Worcester Road, Suite 200
Framingham, MA 01701

Appearance for Appointing
Authority:

Tara L. Chisholm, Esq.
Boston Police Department
Office of the Legal Advisor
One Schroeder Plaza
Boston, MA 02120

Administrative Magistrate:

Joan Freiman Fink, Esq.

COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

2008 MAY - 1 A 9: 56

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RECOMMENDED DECISION

Pursuant to G.L. c. 31 §2(b), the Appellant, Vera Dunn Cooper, is appealing the July 10, 2007 decision to bypass her for appointment as a police officer with the Boston Police Department. On September 17, 2007, the Human Resources Division accepted the reasons proffered by the Boston Police Department for this bypass (Exhibit 5). The Parties stipulated that the Appellant filed a timely appeal of this decision with the Civil Service Commission in accordance with the provisions of G.L. c. 31 §2(b).

A hearing on the merits of the appeal was held on January 28, 2008 at the offices of the Division of Administrative Law Appeals, 98 N. Washington Street, Boston, MA. Various documents were entered into evidence at the hearing (Exhibits 1 – 10). Robin W. Hunt, Director of Human Resources for the Boston Police Department, and Jerome F. Bowens, Detective with the Boston Police Department, testified on behalf of the Appointing Authority. The Appellant testified in her own behalf as did Leo Karapedian, her father, and Joseph Cooper, her current husband. A stenographic record was made of the proceeding.

The record in this matter was left open until March 31, 2008 for the filing of written closing memoranda.

FINDINGS OF FACT

Based on the documents entered into evidence (Exhibits 1 –10) and the testimony of Robin W. Hunt, Jerome F. Bowen, Leo Karapedian, Joseph Cooper and Vera Dunn Cooper, I make the following findings of fact:

1. The Appellant, Vera Dunn Cooper, d.o.b. 3/30/75, is a graduate of UMass Boston with a B.S. in Criminal Justice. She has been employed for the past ten years as a site officer, or special police officer licensed by the City of Boston. In this capacity, she has a firearms identification card and a special police officer's license (testimony of the Appellant).
2. In or about 2006, the Appellant took and successfully passed the examination for Boston Police Officer and her name appeared on Certification List 270048 for that position (Exhibits 2 & 3).

3. At some point during 2007, the Boston Police Department reached the Appellant's name on the certification list for appointment as a full time police officer (Exhibit 1).
4. The Appellant formally submitted her application for employment with the Boston Police Department and Detective Jerome Bowen, a twenty-one year veteran of the Department, was assigned the task of conducting an investigation into her background (testimony of Robin Hunt, testimony of Detective Jerome Bowen).
5. The investigation into the Appellant's background revealed that on February 9, 1995, her father, Leo Karapetian, sought a restraining order against her in West Roxbury District Court (Exhibit 5).
6. In his affidavit filed with the court, the Appellant's father stated that she arrived home at 11:30 p.m. on February 5, 1995, and woke him, his wife, and their other daughter¹, screaming that her sister had "trashed" her (Appellant's room (Exhibit 5)).
7. In his affidavit, the father further stated as he got out of bed, the Appellant screamed at him and pushed him with both hands. She then pushed past him and jumped on her parents' bed, causing her mother to fall to the floor. At this juncture, the Appellant attacked her sister. When her father tried to intervene to protect his other daughter, the Appellant kicked him (Exhibit 5).
8. The Appellant's father requested that Ms. Dunn Cooper be ordered to stay away from him personally at home as well as at his place of business

¹ The Appellant testified that her sister was sixteen years old at that time, three years younger than she.

expressing fear that she could assault him or harm others at those locations (Exhibit 5).

9. On February 5, 1995, the Court issued a restraining order without advance notice to the Appellant as it determined “that there is a substantial likelihood of immediate danger of abuse” (Exhibit 5).
10. A full hearing was held on this matter on February 14, 1995 at the West Roxbury District Court. The Appellant did not appear at that time. The restraining order was extended for one year and the Appellant was ordered not to contact her father, to stay at least twenty-five yards from him, and to immediately vacate the family residence. She was also ordered to immediately surrender to the Boston Police Department all guns, ammunition, gun licenses and FID cards (Exhibit 5).
11. As part of his investigation, Detective Bowen spoke to the Appellant’s mother, father, and younger sister (testimony of Detective Jerome Bowen).
12. The three family members confirmed the version of the events as indicated in the restraining order including the assault on the sister and father. However, all three stressed that the Appellant was only nineteen years old at the time of the incident and that while she moved out of the family home as a result of the restraining order, she returned without incident a few years later. The family also emphasized that they felt that the Appellant has greatly matured in the past twelve to thirteen years (testimony of Detective Jerome Bowen, testimony of Leo Karapetian).

13. Detective Bowen's investigation also revealed that on December 1, 1998, the Appellant's then-husband, Darrell Dunn, had sought a restraining order against her in the West Roxbury District Court and requested that his address be impounded for his protection (Exhibit 6, testimony of Detective Jerome Bowen).
14. In his affidavit filed with the court, Darrell Dunn stated that he and the Appellant had recently separated and that she had been stalking him. In addition, the Appellant would call his mother's house and then hang up the telephone when she (his mother) answered. Darrell Dunn further stated that the Appellant has a history of irrational, violent, and destructive behavior and that she called him that morning and threatened him (Exhibit 6).
15. The court issued the restraining order on December 1, 1998 without advance notice to the Appellant as it "determined that there is a substantial likelihood of immediate danger of abuse" (Exhibit 6).
16. A full hearing on the matter was held on December 10, 1998 at which time both the Appellant and Darrell Dunn appeared. The restraining order was determined to be in effect for the period of December 1, 1998 through December 10, 1998 at which point it expired (Exhibit 6, testimony of the Appellant).
17. As part of his investigation, Detective Bowen attempted to contact Darrell Dunn. When he arrived at Mr. Dunn's last known address, he met his (Dunn's) mother, Mildred Dunn. Detective Bowen explained to the mother that he wished to talk with her son concerning a restraining order that had

been issued against his former wife approximately nine years previously (testimony of Detective Bowen).

18. Mildred Dunn described the Appellant as “trouble with a capital ‘T’” and confirmed that she used to call the house and hang up the phone. She further confirmed that the Appellant had threatened her son (testimony of Detective Bowen).
19. Detective Bowen left his business card with Mildred Dunn and shortly thereafter, her son called the detective from the west coast. Darrell Dunn informed Detective Bowen that he had sought the restraining order as his wife had threatened to throw a brick through his mother’s window and that she was stalking him. Mr. Dunn also informed the detective that there was a suspicious fire at their marital home (testimony of Detective Jerome Bowen).
20. During the course of his investigation while reviewing the incident reports kept by the Boston Police Department, Detective Bowen found Incident Report #040-211635 dated April 27, 2004 (Exhibit 8).
21. Report #040-211635 listed the Appellant as the “offender” in a Domestic Verbal Dispute with Kevin McGrail, her then boyfriend. The incident report prepared by Officer Joseph Collins indicated that Mr. McGrail had called for help from the police as the Appellant had taken his car keys and would not return them. The Appellant acknowledged to the officers who arrived at the scene after being summonsed by Mr. McGrail that she had taken the keys but stressed that she was very upset that her boyfriend had cheated on her (Exhibit 8).

22. The results of Detective Bowen's background investigation were presented to the Boston Police Department's hiring committee during a "roundtable" discussion. Present at this "roundtable" discussion were the Commander of Recruit Investigations, the Director of Human Resources, a Deputy Superintendent from Internal Affairs, and an attorney from the Legal Advisor's Office (testimony of Robin Hunt).
23. At the "roundtable" discussion, the hiring committee reviewed the three separate domestic dispute incidents involving the Appellant and determined that she was not a suitable candidate for the position of Boston Police Officer (testimony of Robin Hunt).
24. On July 10, 2007, Robin Hunt, Director of Human Resources for the Boston Police Department, notified the Human Resources Division of the Commonwealth of Massachusetts that she was bypassing the Appellant for appointment to the position of permanent full time police officer for the City of Boston (Exhibit 4).
25. On September 17, 2007, the Human Resources Division sent the Appellant official notification that it accepted the reasons offered by the Boston Police Department for bypassing her for appointment as a police officer (Exhibit 5).
26. Pursuant to G.L. c. 31 §2(b), the Petitioner filed a timely appeal of the decision of the Human Resources Division with the Civil Service Commission (stipulation of the parties).

27. Eventually, sixty-four candidates, whose names appeared lower than the Appellant's name on the certification list, were selected for the position of Boston Police Officer (Exhibit 1).

CONCLUSION AND RECOMMENDATION

After careful review of the testimony and evidence presented in this appeal, I recommend that the decision of the Human Resources Division accepting the reasons proffered by the Boston Police Department for bypassing the Appellant for appointment for the position to police officer be affirmed.

In a bypass case, the Civil Service Commission must determine "whether the appointing authority has sustained its burden or proving that there was reasonable justification for the action taken by the appointing authority." See *City of Cambridge v. Civil Service Commission*, 43 Mass. App. Ct. 300, 304 (1997). "Justified" in this context 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.

In this case, the Appointing Authority, the Boston Police Department, bypassed the Appellant for appointment to the position of police officer for several reasons. In the first instance, the Appellant was the subject of a one year restraining order taken out by her father in 1995. The Appellant was also the subject of a ten day restraining order taken out by her then-husband in 1998. Finally, the Appellant was involved in a

domestic dispute which required the involvement of the Boston Police Department in 2004.

By her involvement in several instances of domestic violence, the Appellant has demonstrated that she is not a suitable candidate for appointment as a Boston Police Officer.

The Appellant herself was the named defendant in two cases in which restraining orders were issued against her. In the first case, the Appellant physically assaulted her father and sister and her aggressive behavior directly resulted in her mother being thrown from a bed onto the floor. This case, which was heard before Justice Richard Walsh of the West Roxbury District Court, resulted in not only a restraining order for a period of one year being issued against her, but also an order removing her from the family home.

In the second instance, the Appellant had a ten day restraining order issued against her for making a threat against her then-husband as well as stalking him.

In the third instance, which occurred only four years ago, the Appellant was involved in a domestic dispute with her then boyfriend that resulted in her boyfriend having to call the Boston Police Department to retrieve his car keys that were being held by Ms. Dunn Cooper.

At the hearing, the Appellant testified that she was only nineteen years old when the first restraining order was issued against her and that had she realized that this criminal proceeding would remain as a permanent record, she would have appeared at the hearing to contest this order as she felt that her sister had wrongfully destroyed her bedroom. The Appellant's father, Leo Karapedian, also testified at the hearing. While confirming the events that transpired in 1995 that led to the issuance of the restraining

order against his daughter, Mr. Karapedian emphasized that his daughter has matured since 1995 and that they now have a cordial relationship.

The Appellant further testified that she filed for a divorce from Mr. Darrell Dunn because he was using drugs. She denied the allegation that she had made a threat against him. However, she acknowledged that she was responsible for the fire to the marital home but noted that it was an accident as she had inadvertently left a candle lit all night long.

With respect to the third instance, the Appellant testified that she took Mr. McGrail's keys as she felt that he was not in a proper condition to drive his vehicle. When the Boston Police Officer asked her to return Mr. McGrail's keys, she complied without protest.

Notwithstanding the testimony of both the Appellant and her father, I conclude that the Appellant's conduct demonstrates a pattern of abusive behavior as well as a pattern of exercising poor judgment. Moreover, the Appellant's father completely corroborated that she had been violent on the evening in question. Regarding the third instance, it seems highly improbable that Mr. McGrail would have asked for police intervention to retrieve his car keys if he were impaired as he would have knowingly placed himself in jeopardy.

The Boston Police Department is frequently called upon to respond to situations involving domestic violence. By her own propensity towards violence and her exercise of extremely poor judgment, the Appellant has demonstrated that she is not a suitable candidate to perform the duties and functions of a police officer. See *Police Commissioner of Boston v. Civil Service Commission*, 494 N.E. 2d 27 (1986) where the

Police officers must comport themselves in accordance with the laws that they are sworn to enforce and *behave in a manner that brings honor and respect for rather than public distrust of law enforcement personnel*" (emphasis supplied).

Based on the above, I conclude that the Appointing Authority has more than met its burden of proof to demonstrate that the Appellant does not meet the minimum qualifications and standards expected of a police officer. I found Robin Hunt to be a convincing and persuasive witness and credited her testimony to the effect that the Boston Police Department gave careful consideration to all the facts and circumstances in this case prior to rendering its decision that the Appellant's background of volatile, aggressive, and abusive behavior as well as a continuing pattern of exercising poor judgment disqualifies her from serving as a Boston Police Officer.

For the foregoing reasons, I recommend to the Civil Service Commission that the Appellant's appeal be denied and that the decision of the Human Resources Division upholding the Boston Police Department's bypass of Ms. Dunn Cooper to the position of police officer be affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS


Joan Freiman Fink
Administrative Magistrate

Dated: 4/30/08