

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2001-071, Appeal of Trooper Christopher E. Conley, the court on January 2, 2002, made the following order:

Trooper Conley's motion to withdraw appeal is granted. Motion to compel court order is, therefore, moot.

Appeal withdrawn.

This order is entered by a single justice (Duggan, J.). See Rule 21(7).

**Eileen Fox,
Clerk**

Date of clerk's notice of decision: January 7, 2002

Distribution:

✓ NH Personnel Appeals Board 00-P-7
Attorney General
Mr. Christopher Conley
NH Troopers Association
Sheri J. Kelloway-Martin, Esquire
Laura Mitchell, Supreme Court
File

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

"APPEAL OF CHRISTOPHER CONLEY

DOCKET # 00-P-7

Department of Safety, Division of State Police

August 18, 2000

The New Hampshire Personnel Appeals Board (Wood, Rule and Bany) met on Wednesday, May 24, 2000, under the authority of RSA 21-I:58, to hear the appeal of Christopher Conley, an employee of the Division of State Police, Department of Safety. Trooper Conley, who was represented at the hearing by Attorney James Donchess, was appealing the department's decision not to select him for promotion to the rank of Sergeant. Major Kevin O'Brien appeared on behalf of the Department of Safety.

The appeal was heard on offers of proof by the representatives of the parties. The record of the hearing in this matter consists of pleadings submitted by the parties, notices and orders issued by the Board, the audio tape recording of the hearing on the merits of the appeal, and documents admitted into evidence as follows:

State's Exhibits

- A. Grievance filed 11/16/99 by Christopher Conley
- B. Response to grievance by Major O'Brien dated 11/19/99
- C. E-mail response to Christopher Conley after meeting with Major Furlone of 12/3/99
- D. Letter of Appeal by Christopher Conley on 12/15/99 to Colonel Sloper
- E. E-mail acknowledgement of appeal letter to Christopher Conley from Major O'Brien of 12/30/99
- F. Letter of Appeal by Christopher Conley to Colonel Sloper dated 2/2/2000
- G. Letter of Appeal by Christopher Conley to Commissioner Flynn dated 2/4/2000

- H. Letter from Captain Hunter to Christopher Conley dated 2/15/2000 responding to appeal letter of 2/2/000
- I. Letter from Major O'Brien regarding appeal of non-selection dated 2/24/2000
- J. Posting of appealed positions dated 3/19/99
- K. Performance evaluation dated 12/15/99

Appellant's Exhibits

- 1. Performance evaluation for Christopher Conley dated 7/29/97
- 2. Performance evaluation for Christopher Conley dated 8/22/96
- 3. Performance evaluation for Christopher Conley dated 8/3/95
- 4. Memo dated 12/31/96 from Lt. Ray Burke to Col. John Barthelmes nominating Christopher Conley for the 1996 Detective of the Year
- 5. Official Recognition for Corporal Christopher E. Conley signed by Col. Lynn Presby
- 6. US Army Officer Evaluation Report for Maj. Christopher Conley, 1159th Medical Company for the period of 8/1/97 through 5/1/98
- 7. US Army Officer Evaluation Report for Maj. Christopher Conley, 1159th Medical Company for the period of 6/1/98 through 4/30/99
- 8. Division of State Police Vision Statement and Code of Ethics

Attorney Donchess argued that if selection is the process of choosing the candidate best qualified for a vacancy, the Division of State Police should have selected Trooper Conley for promotion to the Rank of Sergeant I. Attorney Donchess asserted that over the course of his 16 year career, the appellant has served as a pilot in the Aircraft Unit, has received commendations for his performance, was named the Troop E Detective of the Year in 1996, and has developed a significant record of success investigating charges of sexual assaults against children. Attorney Donchess noted that the appellant has demonstrated leadership abilities as well, holding the rank of Major in the National Guard in command of 93 subordinates. Since January, Attorney Donchess noted, the appellant has also served as Ombudsman to the commanding General.

Attorney Donchess argued that while the other promotional candidates are all good people, Trooper Conley has more work experience than some, if not all, of those who were selected for

the rank of Sergeant. He argued that one of the persons promoted had only 6 1/2 years of experience as compared to the appellant's more than 16 years of experience. He also asserted that none of the 4 persons who were promoted had the kind of outside experience in command that Trooper Conley possessed.

Trooper Conley argued that he was the best qualified candidate for promotion by virtue of his education, training, experience, and seniority. He argued that as a trooper, detective, and now as a special enforcement officer, he has always met and achieved standards. As a detective, he said, he was always in the top 10% of the officers in terms of cases he handled, and he cleared the highest number of cases, many of which involved crimes against children. Trooper Conley also said that he had been instrumental in drafting the use of force training and reporting standards for the Division's operating procedures manual.

Trooper Conley argued that it was difficult for him to appear before the Board and criticize the Division of State Police. However, he said, he appealed his non-selection to demonstrate that the selection process within the Division of State Police "operates behind a veil of secrecy" and that it is "fatally flawed" when it fails to follow the Personnel Rules or provide documentation supporting its decisions. He argued that by denying him promotion to the rank of sergeant, the Division denied him "equality of opportunity." He also argued that there was no clear internal policy for selection, and the standards for assessing a candidate's application for promotion were not even given a cursory review. He asserted that in his meeting with the Major, he was told that selection "comes down to being in the right place at the right time," demonstrating that the selection process was arbitrary.

Trooper Conley said that although his service record was clearly more meritorious than any of the other applicants, he was denied promotion because the command staff "had a problem with him." Trooper Conley made an offer of proof that on September 18, 1997, a State Police Captain told him that he would not be recommended with confidence for any position. He said that when he asked why he would not be recommended with confidence, the Captain made reference to a confidential conversation in which Trooper Conley had offered some constructive criticism.

Trooper Conley argued that the conversation was later used improperly as evidence of a lack of

loyalty on his part, contributed to the command staffs belief that he was not "a team player," and contributed to his non-selection for promotion.

Trooper Conley also argued that the Division objected to the amount of time that he was away as a result of his National Guard activities. He argued that the Division had used his absences as evidence of a lack of commitment, improperly relying on his military commitments as a basis for denying him promotion.

Maj. O'Brien argued that although Trooper Conley has a wonderful record and is a valued member of the organization, in the Colonel's mind, the candidates who were selected for promotion were better suited for the positions. Maj. O'Brien admitted that the selection process is not a perfect system. However, he argued, the rules on promotion are simply guidelines, since the Personnel Rules give the appointing authority the discretion to determine which candidate is best-suited for promotion.

Maj. O'Brien described the selection process, explaining that those Troopers who qualify to take the Sergeant's examination, and who have passed that examination, are eligible to apply for vacancies at that rank when they occur. When a vacancy is announced, interested individuals submit their application and get a recommendation from their commanders. The applications are then forwarded to the command staff for their review and recommendations. Maj. O'Brien said that ordinarily, the command staff does not rank the candidates. Instead, they forward the names of three to five individuals who are recommended for promotion to the vacant position. Ultimately, the Colonel decides which candidate(s) to select and he transmits that decision to the Commissioner.

Major O'Brien argued that there was nothing irregular or improper in Captain Hunter's decision to substitute his own promotional recommendation on Trooper Conley's application for the one originally provided by Trooper Conley's unit commander. Major O'Brien argued that promotional recommendations for the rank of sergeant should be made by someone at the rank of lieutenant or above, since there could be a potential conflict in receiving recommendations from an officer who currently holds the rank of the position for which promotion is sought. He noted

that in Trooper Conley's case, the original recommendation had been made by a sergeant who was retiring.

Major O'Brien argued that selecting the right candidates for the rank of Sergeant is critical to the future of the agency. He argued that although seniority makes a 'good tie-breaker when candidates for a vacancy have the same level of skills, the Division of State Police does not promote solely on the basis of seniority, choosing instead to promote "the best and the brightest." He argued that while Trooper Conley seemed to believe that the Division should accept his record of military service as evidence of superior qualifications, military experience is not the same as civilian policing, and does not necessarily make Trooper Conley the candidate best suited for promotion.

Major O'Brien took exception to Trooper Conley's assertion that his National Guard leaves were used as a disqualifying factor or that there was any irregularity in the handling of Trooper Conley's application for promotion. Major O'Brien asserted that when Trooper Conley met with Colonel Sloper, the Colonel identified six specific areas for improvement. He said that neither Trooper Conley's periodic absences nor his relationship with any of the command staff had any bearing on the selection decision.

Attorney Donchess argued that one the areas of concern discussed by Colonel Sloper was directly related to Trooper Conley's National Guard duties, specifically that the Colonel believed Trooper Conley left too many cases open while he was on military leave. He also said that in the meeting, Colonel Sloper described Trooper Conley as "a loner, not a team player," assessments that were in direct contradiction to the performance evaluations he had received prior to his non-selection. Attorney Donchess argued that there were material facts in dispute that could not be resolved without a hearing at which the parties could examine and cross-examine witnesses on the disputed facts.

Although the documents admitted into evidence make reference to discussions between Trooper Conley and members of the command staff about the reasons for non-selection, none of the documents actually identify those reasons. Maj. O'Brien asserted that the majority of candidates

prefer to receive oral notice of the reasons for non-selection. Nonetheless, without knowing the specific reasons for non-selection, the Board is unable to determine whether they are valid and sufficient to deny promotion to a long-term employee with an ostensibly good record of performance.

Per 602.02 (a) of the Rules of the Division of Personnel provides that:

"Whenever possible, selection by the appointing authority to fill a vacancy shall be made from within the agency and shall be based upon the employee's:

- (1) Possession of the knowledge, skills, abilities and personal characteristics listed on the class specification for the vacant position; and
- (2) Capacity for the vacant position as evidenced by documented past performance appraisals."

Trooper Conley offered evidence supporting his assertion that he meets the minimum qualifications for selection, that he possesses the knowledge, skills, abilities and personal characteristics required for promotion, and that his past performance evaluations demonstrate his capacity for the vacant position.

While the Board generally defers to management's judgement in deciding which candidates are best suited to fill a vacancy, the State has yet to articulate any of the actual reasons for Trooper Conley's non-selection. Instead, the State simply asserted its management prerogative to select the person who, in the opinion of the appointing authority, was best qualified for selection to the vacancy.

As set forth in the Board's original notice of scheduling, "If [after the preliminary hearing] the Board should then determine that it has insufficient evidence to fairly decide the appeal, the Board, upon its own motion or on the motion of a party, may vote to compel the production of additional evidence, up to and including the testimony of witnesses." Having determined that it has insufficient evidence upon which to fairly decide the appeal, and having determined that there are material facts in dispute, the Board voted unanimously to schedule a further evidentiary

hearing, under the authority of RSA 21-I:58 and the Rules of the Personnel Appeals Board, in order to take the testimony of Colonel Sloper. Should either party wish to call additional witnesses, they shall so notify the Board within the next 10 calendar days so that the Board can allot sufficient time in which to complete the hearing.

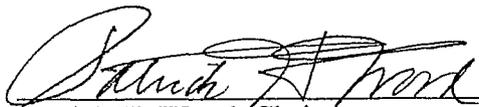
The parties, under the authority of RSA 21-I:58 and the Rules of the Personnel Appeals Board are directed to appear on the date and at the time specified below:

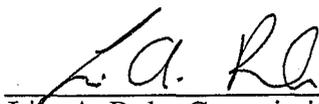
Wednesday, September 20, 2000 9:00 a.m.

Room 411 - State House Annex, 25 Capitol Street, Concord, NH 03301

Motions for postponement or special scheduling will only be considered for exceptional circumstances and must be made in writing to the Personnel Appeals Board within ten (10) calendar days of the date of this notice to be considered. Untimely requests will be denied, except in the event of a *bona fide* emergency.

THE PERSONNEL APPEALS BOARD


Patrick H. Wood, Chairman


Lisa A. Rule, Commissioner

James J. Barry, Commissioner

cc: Thomas F. Manning, Director of Personnel, 25 Capitol St., Concord, NH 03301
Atty. James Donchess, Donchess & Notinger P.C. 60 Main Street, Nashua NH 03060
Maj. Kevin O'Brien, Division of State Police, 10 Hazen Dr., Concord, NH 03305
Atty. Sheri J. Kelloway, Dept. of Safety, 10 Hazen Dr., Concord, NH 03305

State of New Hampshire



PERSONNEL APPEALS BOARD

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APPEAL OF CHRISTOPHER CONLEY
DEPARTMENT OF SAFETY, DIVISION OF STATE POLICE
DOCKET #00-P-7

November 15, 2000

The New Hampshire Personnel Appeals Board (Wood, Rule and Barry) met on Wednesday, September 20, 2000, under the authority of RSA 21-I:58, for a continuation of the May 24, 2000 hearing in the appeal of Christopher Conley, an employee of the Department of Safety, Division of State Police. Attorney James Donchess appeared for the appellant. Attorney Sheri Kelloway appeared on behalf of the Department of Safety.

The Board originally heard this appeal on May 24, 2000 on offers of proof by the parties. After the conclusion of that hearing, the Board determined that it had insufficient evidence upon which to fairly decide the appeal. Accordingly, the Board scheduled a further hearing to take the testimony of Col. Gary Sloper, as well as the testimony of any other witnesses the parties wished to call.

The record of the hearing in this matter consists of the pleadings submitted by the parties, notices and orders issued by the Board, the audio tape recording of the hearing on the merits of the appeal, and documents admitted into evidence on May 24, 2000 and on September 20, 2000 as follows:

State's Exhibits

- A. Grievance filed 11/16/99 by Christopher Conley
- B. Response to grievance by Major O'Brien dated 11/19/99
- C. E-mail response to Christopher Conley after meeting with Major Furlone of 12/3/99
- D. Letter of Appeal by Christopher Conley on 12/15/99 to Colonel Sloper
- E. E-mail acknowledgement of appeal letter to Christopher Conley from Major O'Brien of 12/30/99
- F. Letter of Appeal by Christopher Conley to Colonel Sloper dated 2/2/2000
- G. Letter of Appeal by Christopher Conley to Commissioner Flynn dated 2/4/2000
- H. Letter from Captain Hunter to Christopher Conley dated 2/15/2000 responding to appeal letter of 2/2/000
- I. Letter from Major O'Brien regarding appeal of non-selection dated 2/24/2000
- J. Posting of appealed positions dated 3/19/99
- K. Performance evaluation dated 12/15/99
- L. February 8, 2000 memo from Col. Sloper to Commissioner Flynn re: TFC Conley Appeal
- M. September 1, 2000 letter from Earl M. Sweeney to Trooper Christopher Conley

Appellant's Exhibits

- 1. Performance evaluation for Christopher Conley dated 7/29/97
- 2. Performance evaluation for Christopher Conley dated 8/22/96
- 3. Performance evaluation for Christopher Conley dated 8/3/95
- 4. Memo dated 12/31/96 from Lt. Ray Burke to Col. John Barthelmes nominating Christopher Conley for the 1996 Detective of the Year
- 5. Official Recognition for Corporal Christopher E. Conley signed by Col. Lynn Presby
- 6. US Army Officer Evaluation Report for Maj. Christopher Conley, 1159th Medical Company for the period of 8/1/97 through 5/1/98
- 7. US Army Officer Evaluation Report for Maj. Christopher Conley, 1159th Medical Company for the period of 6/1/98 through 4/30/99

At the hearing on September 20, 2000, the following persons gave sworn testimony:

Col. Gary Sloper

TFC Christopher Conley

Sgt. Kelly McClare

In addition to the summary of the evidence and argument contained in the Board's preliminary order issued on August 18, 2000, the Board made the following findings of fact and rulings of law based on the evidence and argument offered by the parties.

Findings of Fact

1. State Police Troopers who are interested in applying for promotion to the rank of Sergeant begin the process by completing an application and submitting it to the Division of Personnel for certification to establish their eligibility to take the promotional examination.
2. Those who certify and satisfactorily complete the examination process are notified of their eligibility to apply for Sergeant vacancies as they occur.
3. Troopers submit their applications for promotion through their troop commanders who review each application and mark each with a rating: not recommended, recommended with reservation, recommended, or recommended with confidence.
4. Because of the varied nature of the assignments themselves, an applicant might be considered unsuitable for one Sergeant position and perfectly well-suited to another. As a result, a trooper who applies for more than one vacancy might not be recommended for one vacancy and be recommended with confidence for another.
5. Applications are then reviewed by the administrative Major and discussed with the command staff (Lieutenants, Captains, and Majors) for their assessments and recommendations.
6. Generally, the command staff recommends three to five candidates for selection to any given vacancy.
7. Colonel Sloper reviews the entire list of candidates, the command staff recommendations, the personnel files and performance evaluations of the candidates, and makes his

recommendation to Commissioner Flynn based on his determination of which candidate is best suited to a particular vacancy.

8. Commissioner Flynn gives the final approval for selection.
9. After establishing his eligibility for promotion to the rank of Sergeant, Christopher Conley, a 16-year veteran of the Division of State Police, applied for seven different vacancies at the rank of Sergeant.
10. Trooper Conley had more seniority than one or more of the selected candidates.
11. Colonel Sloper indicated that when all other things are equal, length of service is considered a factor for selection, but it is not the sole determining factor.
12. There were as few as 16 applications and as many as 24 applications for each of the seven posted Sergeant vacancies.
13. Trooper Conley was not selected for any of the vacancies.
14. In a meeting with Trooper Conley about his non-selection, Colonel Sloper told the appellant that he was a qualified candidate and a good trooper, but that there were reservations expressed by the command staff about Trooper Conley failing to complete certain assignments or make arrangements for those assignments to be completed by another trooper prior to the appellant's departure on an extended military leave.
15. Colonel Sloper also indicated that command staff had expressed reservations about Trooper Conley "stepping up to the plate" and commanding the respect of his peers.
16. Colonel Sloper referred to an incident when the appellant was on duty in Laconia and was reported as being away from his assigned area when he and another trooper made an arrest.
17. Colonel Sloper also mentioned an incident in which Trooper Conley failed to apprise his supervisor or anyone in his barracks that he had removed a reference book from the barracks for use in a teaching assignment.
18. When Colonel Sloper was either a Captain or a Major, Trooper Conley completed a background investigation and provided a hiring recommendation for a female candidate for probationary trooper. In Colonel Sloper's opinion, the candidate was not suitable because of prior job firings, performance issues, and immature behavior reflecting poor judgment. The female was not hired and she later sued the Division for sex discrimination and received an undisclosed cash settlement.

19. None of Trooper Conley's performance evaluations refer to the specific incidents cited in Colonel Slopes's testimony or in his February 8, 2000 memorandum to Commissioner Flynn detailing the reasons for Trooper Conley's non-selection for promotion.
20. Promotional opportunities within the Division of State Police are limited and the agency can promote only a few candidates from a large number of qualified, talented, competitive applicants.
21. Trooper Conley believes that he was not selected for promotion because of difficulties with the command staff, specifically that he had annoyed command staff by offering constructive criticism that was not well received, that he was absent for extended periods of time on military leave, and that he had recommended hiring a candidate who later sued the State for discrimination.
22. Trooper Conley believes that his education, experience and past performance make him the most qualified candidate for any of the positions for which he had applied.

Rulings of Law

- A. "Whenever possible, selection by the appointing authority to fill a vacancy shall be made from within an agency and shall be based upon the employee's: (1) Possession of the knowledge, skills, abilities and personal characteristics listed on the class specification for the vacant position; and (2) Capacity for the vacant position as evidenced by documented past performance appraisals" [Per 602.02 (a)].
- B. "The most qualified candidate for the position, in the opinion of the appointing authority, shall be selected..." [Per 602.02 (c)].
- C. "Candidates may be denied selection if, in the opinion of the appointing authority, they are deemed to lack personal or professional qualifications for promotion" [Per 602.02 (d)].
- D. "Any permanent employee who is affected by any application of the personnel rules, except for those rules enumerated in RSA 21-I:46, I and the application of rules in classification decisions appealable under RSA 21-I:57, may appeal to the personnel appeals board within 15 calendar days of the action giving rise to the appeal. ..." [RSA 21-I:58, I]

- E. "...If the personnel appeals board finds that the action complained of was taken by the appointing authority for any reason related to politics, religion, age, sex, race, color, ethnic background, marital status, or disabling condition, or on account of the person's sexual orientation, or was taken in violation of a statute or of rules adopted by the director, the employee shall be reinstated to the employee's former position or a position of like seniority, status, and pay. ..." [RSA 21-I:58, I]
- F. "...In all cases, the personnel appeals board may reinstate an employee or otherwise change or modify any order of the appointing authority, or make such other order as it may deem just.

The Position of the Parties

The appellant argued that he had achieved a higher score on the promotional examination, that he had more seniority, and that he had more experience than other candidates who were selected. He argued that any rationale offered by the Division for its decision was simply an attempt to "wash" a discriminatory motive case and try to legitimize an otherwise improper decision. He argued that his military leaves, his relationship with the command staff, and anger over his support for the candidacy of a woman who was suing the Department comprised the real reasons he was not selected for promotion to the rank of Sergeant.

The State argued that there is a substantially greater number of candidates interested in promotion than there are vacancies into which to promote them.. The State argued that as difficult as it is, management has a responsibility to consider all the available information about promotional candidates, to form an opinion of each candidate's abilities, and to select the candidate who is most qualified and best suited to a particular vacancy. The State argued that in the opinion of the appointing authority, although Trooper Conley was certainly qualified, he simply was not considered to be as qualified or as well suited to the various vacancies as the candidates who were selected.

The State admitted that the reasons cited for non-selection were not raised in Trooper Conley's performance evaluations, arguing that the appellant's supervisors may not have considered any

one of the issues sufficiently significant at the time to warrant that level of management intervention. However, the State argued, collectively those concerns made Trooper Conley a less desirable candidate than some of his fellow applicants.

Decision and Order

Trooper Conley's disappointment and his frustration with the selection process are understandable. The Division's explanation of the reasons for his non-selection do not appear in the appellant's annual performance evaluations, and while those issues may have had some effect on a troop commander's recommendations, none of them would appear to provide a sufficient reason to reject his application out of hand. Inasmuch as the Division failed to discuss those issues with the appellant prior to his notice of non-selection, the appellant would have had no way to challenge the accuracy of the information or address any perceived deficiencies in his performance. Furthermore, without timely notification of the Division's concerns, the appellant would be far more likely to ascribe some other motive to the Division's decision to deny his application for promotion.

There was no credible evidence, however, that the appellant's application was rejected out of hand, or that there was an ulterior motive behind the Division's decision not to select Trooper Conley for promotion. Instead, the evidence reflects that there was a large pool of qualified applicants for each of the vacant positions, and Colonel Sloper simply did not find Trooper Conley to be the best candidate for the available vacancies.

Despite Trooper Conley's argument that he had more seniority and a higher score on the promotional examination than candidates who were selected, there is no requirement for an appointing authority to give those factors additional weight in a selection process. The appellant offered neither evidence nor argument to suggest that any of the other candidates failed to meet the qualifications for promotion.

The Rules of the Division of Personnel provide broad discretion to appointing authorities in detennining which candidate is most qualified for selection to a vacancy. Absent persuasive

evidence to the contrary, the Board found that Trooper Conley's non-selection for promotion did not constitute an act of unlawful discrimination, and did not violate the Rules of the Division of Personnel.

Therefore, on all the evidence and argument, the Board voted unanimously to DENY Trooper Conley's appeal.

THE PERSONNEL APPEALS BOARD


Patrick H. Wood, Chairman


Lisa A. Rule, Commissioner


James J. Barry, Commissioner

cc: . Thomas F. Manning, Director of Personnel, 25 Capitol St., Concord, NH 03301
Atty. James Donchess, Donchess & Notinger, P.C., 60 Main St., Nashua, NH 03060
Atty. Sheri J. Kelloway, Department of Safety, 10 Hazen Dr., Concord, NH 03305

State of New Hampshire



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Telephone (603) 271-3261

APPEAL OF TROOPER CHRISTOPHER CONLEY

Docket #00-P-7

Department of Safety, Division of State Police

Decision on Appellant's Motion for Reconsideration

January 10, 2001

By motion dated December 8, 2000, submitted on behalf of the above-named Christopher Conley, Attorney Donchess requested that the Board reconsider its November 15, 2000 decision denying Trooper Conley's appeal of his non-selection for promotion to the rank of Sergeant. Appellee's Objection to Motion for Reconsideration, filed by Attorney Kelloway on behalf of the Department of Safety, was received by the Board on December 28, 2000.

As set forth in Per-A 208.03 of the Code of Administrative Rules, "A motion for rehearing in a case subject to appeal under RSA 541 shall be granted if it demonstrates that the board's decision is unlawful, unjust or unreasonable." Having reviewed the Motion and Objection in conjunction with the Board's November 15, 2000 decision in this matter, the Board was not persuaded that its decision denying Trooper Conley's appeal was unlawful, unjust or unreasonable under the facts in evidence. The arguments raised in support of the Motion were raised by the appellant during the hearings on the merits of his appeal, were considered by the Board in deciding the appeal, and were addressed by the Board in its decision denying the appeal. Therefore, the Board voted unanimously to deny the Appellant's Motion for Reconsideration.

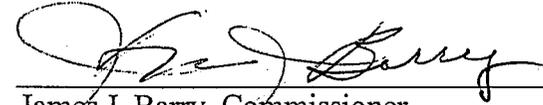
In so doing, the Board also voted unanimously to affirm its original decision denying Trooper Conley's appeal.

.THE PERSONNEL APPEALS BOARD



Patrick H. Wood, Chairperson

Lisa A. Rule, Commissioner



James J. Barry, Commissioner

cc: Thomas F. Manning, Director of Personnel, 25 Capitol St., Concord, NH 03301
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Atty. Sheri J. Kelloway, Department of Safety, 10 Hazen Dr., Concord, NH 03305