

STATE OF FLORIDA
PUBLIC EMPLOYEES RELATIONS COMMISSION

JOHN KUTZ,

Complainant,

Case No. VP-2025-003

v.

BONITA SPRINGS FIRE CONTROL AND
RESCUE DISTRICT,

Respondent.

_____ /

HEARING OFFICER'S RECOMMENDED ORDER

VAN WHITTLE, Hearing Officer.

John Kutz filed a complaint with the Department of Veterans' Affairs (DVA) alleging that the Bonita Springs Fire Control and Rescue District (Fire District) did not afford him the appropriate veterans' preference during the hiring process for the Deputy Chief of EMS position. By letter dated April 17, 2025, the DVA concluded that Kutz's veterans' preference complaint had merit. On June 9, 2025, Kutz filed a complaint with the Commission alleging that the Fire District violated his veterans' preference rights. The undersigned hearing officer was assigned to this case, and an evidentiary hearing was scheduled.

On December 5, a video conference hearing was conducted. All parties were afforded the opportunity to appear, present evidence, examine witnesses, and fully participate in the hearing. The parties agreed to invoke the rule of sequestration, and the witnesses were instructed accordingly. Kutz testified on his own behalf and called Fire Chief Gregory DeWitt and Assistant Chief Jason Brod as additional witnesses. The Fire District did not call any additional witnesses. I admitted sixteen of Kutz's exhibits into the

record: C-1 through C-14; C-17; and C-18.¹ I also admitted twenty-three of the Fire District's exhibits into the record: R-A through R-H; R-K through R-T; R-V through R-X; R-AA; and R-AB. I took administrative notice of Rule 69A-37.065 of the Florida Administrative Code. Kutz and the Fire District filed written closing arguments, both of which I have carefully considered. Both parties filed a transcript of the hearing with the Commission

ISSUES

1. Whether the employer violated the veterans' preference laws when it hired one of the applicants for the Deputy Chief of Emergency Medical Services (Deputy Chief of EMS) position.
2. Whether the employer hired the most qualified candidate for the Deputy Chief of EMS position.

FINDINGS OF FACT

Based upon the testimony, exhibits, stipulations, and my credibility determinations, I make the following factual findings:²

¹ I granted Kutz's oral motion to seal Exhibit C-18 pursuant to section 815.045, Fla. Stat.

² References to the record are made to facilitate review by the Commission but are not necessarily the only record support for any finding of fact. The Complainant's exhibits will be designated "C" with the appropriate exhibit number. The Respondent's exhibits will be designated "R" with the appropriate exhibit number. The transcript of the evidentiary hearing will be designated "Tr." with the appropriate page number. Some of the stipulations have been modified for stylistic preference without changing their meaning.

1. The Fire District is a political subdivision of the State and is a covered employer within the meaning of Chapter 295, Florida Statutes.³ (Stipulation.)

2. At all times relevant to this case, Kutz was a “preference-eligible applicant,” pursuant to section 295.07, Florida Statutes, and Florida Administrative Code Rule 55A-7.003(14). (Stipulation.)

3. Kutz applied for the position of Deputy Chief of EMS, which is a covered position within the meaning of Chapter 295, Florida Statutes. (Stipulation.)

4. The individual selected and hired for the position, Kelli Wilson, was not entitled to veteran’s preference. (Stipulation.)

5. Gregory DeWitt is the Fire Chief for the Fire District, and Jason Brod is the Assistant Chief. Brod is second in command and assists the Fire Chief in all of his duties as instructed, including assisting with personnel decisions. (Tr. at 127; 180-81.)

6. In August 2024, DeWitt became aware that Deputy Chief Madden would be leaving the position of Deputy Chief of EMS around October 1. DeWitt had previously held that position prior to becoming the Fire Chief and knew its requirements. (Tr. at 127-28; 166-67.)

7. DeWitt opened the position for applicants in September and sent a memorandum to the personnel within the Fire District, announcing that the position of Deputy Chief of EMS was open and providing the position description. (Tr. at 34-35; 128; Ex. R-K.)

³ All statutory citations are to the 2025 edition of the Florida Statutes.

8. Specifically, the Deputy Chief of EMS operates as the third in command of the Fire District, after the Fire Chief and the Assistant Fire Chief. The Deputy Chief of EMS is responsible for the Fire District's emergency medical operations, which includes performing highly responsible administrative, managerial, and technical functions in the EMS Division, in addition to coordinating and managing EMS training. The position also responds to structural fires, working brush fires, hazardous material incidents, emergency medical incidents, and technical rescues. (Ex. R-K.)

9. To be considered for the position of Deputy Chief of EMS, candidates must have a bachelor's degree in a related field of study; five years of experience in fire service management; and seven years of progressively responsible firefighting experience. In addition, the candidate needs to have a valid Florida driver's license; Fire Officer II certification; Fire Instructor III certification; Infectious Control Officer certification; and be a credentialed paramedic. (Ex. R-K.)

10. The essential responsibilities of Deputy Chief of EMS include:

- Interacting as the officer-in-charge with personnel and outside agencies in emergency and non-emergency situations as needed,
- Ensuring quality control of emergency medical operations,
- Developing protocol and standard operating guidelines,
- Ensuring that all personnel know and follow the Fire District's rules and operating procedures,
- Overseeing Battalion Chiefs in daily assignments and activity schedules,
- Providing performance feedback during personnel evaluations and counseling subordinates concerning performance issues,
- Overseeing and conducting educational training sessions in emergency medical care,
- Overseeing individual training records for all personnel in emergency medical areas,

- Ensuring that EMS-related equipment is always operational and arranging for repairs and maintenance,
- Managing and assisting in the purchasing of EMS-related equipment and supply inventory,
- Participating in committees, meetings, and orientations,
- Participating in developing an annual budget,
- Overseeing emergency medical related programs as implemented by the Medical Director, and
- Ensuring compliance with state and local laws pertaining to basic life support and advanced life support licensing.

(Tr. at 167-68; Ex. R-K.)

11. Kutz applied for the position and timely notified the Fire District that he was entitled to veterans' preference. (Tr. at 35; Stipulation.)

12. DeWitt was aware that Kutz was an eligible veteran and knew that the veteran's preference policy required "[w]hen the applicant has the same or greater qualifications than an applicant who does not claim Veterans' Preference, the veteran will be offered the position." (Tr. at 177.)

13. Four candidates submitted letters of interest: Kutz, Wilson, Giovanni Zamora, and Nick Araica. DeWitt reviewed their files to verify that the candidates were minimally qualified. (Tr. at 42; 131; 238; Ex. R-K.)

14. Araica did not meet the minimum requirements because his Fire Instructor III certification had expired. He was given an opportunity to correct this, but he did not. Accordingly, he was removed from consideration and did not interview for the position. (Tr. at 131; 236.)

15. Wilson did not have her Infectious Control Officer certification at the time that she submitted her letter of interest. However, she obtained this qualification prior to the interviews and was considered minimally qualified for the position. (Tr. at 239-40.)

16. Kutz and Zamora were both minimally qualified for the position.

(Stipulation; Tr. at 131.)

17. At that point, DeWitt did not determine that any one candidate was more qualified than the others. (Tr. at 130; 138.)

18. DeWitt selected Kutz, Wilson, and Zamora for interviews. All three candidates had vastly different experience, background, training, and credentials. Kutz and Zamora were Lieutenants who were promoted up through the ranks and had worked for the Fire District for about 16-17 years. Wilson had about twenty years of prior experience in firefighting and EMS, but she had been at the Fire District for only eight years. (Tr. at 46-47; 138-39; 145; 157-60; 182; 241 Ex. R-Q.)

19. DeWitt requested Brod participate in the interview and selection process because the Deputy Chief of EMS reports directly to Brod. (Tr. at 138-39; 181-82; 250-51; Ex. R-Q.)

20. On October 22, 2024, DeWitt and Brod conducted one-hour interview for each of the three remaining candidates. (Tr. at 138-39; 181-82; 251; Ex. R-Q.)

Wilson's Interview, Experience, and Qualifications

21. For the interviews, Wilson brought a packet that included a resume, letters of interest, reference letters, and certifications. Several of the reference letters were from medical directors, including Dr. Lafferty and Dr. Abo. Dr. Lafferty is a respected medical director for multiple fire departments and works with Wilson as a colleague on the Medical Care Council and the protocol subcommittee. Dr. Abo is the Fire District's

medical director, as well as the medical director for Florida Task Force One and several other fire departments. Reference letters from these individuals carried a lot of weight because they were from respected physicians that work well with Wilson. (Tr. at 214-18.)

22. Wilson previously worked for a different employer (Captiva) and while there, she ran their Advanced Life Saving (ALS) program as a Lieutenant. She had a total of approximately twenty years in the field, but she had worked at the Fire District for only about eight years. (Tr. at 145; 157-59; 241.)

23. At the time of the interviews, Wilson was the Training Captain. Many of Wilson's duties were already in line with the duties for Deputy Chief of EMS. She worked with the Deputy Chief of EMS but never fully operated in that position when Madden left it. Instead, she would handle certain duties as assigned. (Tr. at 169-70; 255.)

24. As the Training Captain, Wilson assisted in unpacking and replacing the equipment and delivering drugs as needed. She also maintained a training budget and had experience in those matters, which was important since the Deputy Chief of EMS would be responsible for managing the budget of the entire EMS and planning for future capital expenses. (Tr. at 145; 207-08.)

25. Wilson took the initiative within EMS, even when some tasks were not within the scope of her job. She had been vastly involved and entwined with the EMS's mission and goals and where DeWitt wanted it to progress. (Tr. at 160; 207.)

26. During Wilson's time as Training Captain at the Fire District, she took on roles that are typically performed by the Deputy Chief of EMS because Madden did not

want to perform those duties. She had attended the County's training and protocol subcommittee that other EMS Chiefs attended, including Madden. (Tr. at 145-48.)

27. Wilson was very involved with the state and local EMS. She was on the Medical Care Council, fostered county-wide training including training with EMS in Lee County, and was part of the protocol subcommittee. At the state level, Wilson helped to create the protocol for postpartum and hypertension. Further, Wilson was a part of the Incident Management Team (IMT) for the county itself and was on call every fourth week as a safety officer. (Tr. at 145; 159; 204.)

28. Wilson had a passion for helping the Fire District obtain their own Advanced Life Saving (ALS) transport so the Fire District would not need to rely on borrowing a unit from another county. She also had connections throughout the region with all the other EMS Chiefs and at the state level, which could be helpful. (Tr. at 160-61; 197-98.)

29. In addition, Wilson wanted to find a way for their computer-aided dispatch to talk to Collier County's computer-aided dispatch. The Fire District had dispatch capabilities to respond to Collier County on an automatic basis, but Collier County did not have the same capabilities to respond to the Fire District. (Tr. at 197-98.)

30. DeWitt had been trying to improve those issues with transport for thirty-seven years; this was an important goal for the Fire District. (Tr. at 197-98.)

31. Wilson and the prior Deputy Chief of EMS were successful in making important changes regarding updating patient outcome. Previously, the Fire District was required to call the hospital in order to follow up on their patients' outcomes, which was a very cumbersome process in light of HIPAA protections. Now, the Fire District is able to

access the hospital computers so they can track their patients' entire medical progress.

(Tr. at 205.)

32. Wilson wanted to help make the position of Training Captain more respected and attractive so that people within the Fire District would seek to fill it. Specifically, when hiring a new Training Captain, the Fire District had to consistently broaden their selection to outside hires repeatedly because nobody from within the Fire District was interested in the position. Internal personnel believed it to be a dead-end job.

(Tr. at 200-01.)

33. Wilson wanted to progress the classes offered to the public that would assist in medical emergencies, like a CPR class that incorporates the automatic external defibrillator and a Stop the Bleed program. Typically, when the Fire District receives a Phoenix Award, CPR was started before paramedics arrived. (Tr. at 209-10.)

34. Wilson wanted personnel to be able to train using a more hands-on approach with new equipment so that they had a chance to become familiar with the equipment. (Tr. at 204.)

35. DeWitt wanted the Deputy Chief of EMS to work Monday through Friday from 8 until 5 and have a solid presence in the office every day for the first year. Wilson had already been thinking of shifting her schedule to Monday through Friday. At the time, Wilson was working ten-hour days from Monday through Thursday, which was closer to the desired work schedule for the Deputy Chief of EMS. In contrast, the other candidates worked shift work. (Tr. at 199-200.)

36. Wilson was a good example within the Fire Department of leading by example and making sure personnel placed their own safety first, both with firefighting safety and decontamination after a fire. She did not see the safety procedures as a punishment, but as a positive. (Tr. at 202.)

37. Wilson stressed open communications with an “open-door” policy and wanted a positive environment in the Fire District. (Tr. at 197-98.)

38. During the interview, Wilson emphasized that if there was a problem, she wanted both sides of the story and would put in the work to understand what happened and to resolve the issue. (Tr. at 203.)

39. However, DeWitt also knew that Wilson also could have knee-jerk reactions to incidents and errors, and that was a potential problem for the Fire District’s morale. If somebody did something wrong, her first reaction was to scold and ask why they did not follow protocol. Wilson knew that she had this problem and planned to compensate for it by soliciting the facts first and being open-minded to things. (Tr. at 159-60; 199; 207.)

Kutz’s Interview, Experience, and Qualifications

40. Kutz graduated from the fire academy in 2006 and began working as an EMT/Firefighter for the Fire District the same year. (Tr. at 21.)

41. After completing paramedic school, Kutz was given a raise and moved to Paramedic/Firefighter. (Tr. at 21-22.)

42. Kutz was again promoted in rank to Lieutenant in 2018 after he obtained his Fire Officer II certification, among other requirements. (Tr. at 23-24.)

43. Kutz then became an Acting Battalion Chief, which permits him to act in that role if needed. (Tr. at 32.)

44. Kutz received many awards from the Fire District, including Paramedic of the Year and a Distinguished Service Medal. (Tr. at 64.)

45. In 2015, Kutz enlisted in the Army through the Florida National Guard and attended basic training in January 2016 and then training for his military occupational specialty. (Tr. at 24-25.)

46. His military occupational specialty was combat medic. A combat medic is different from being a paramedic because a combat medic does more than stabilize and assist patients while they are transported to the hospital. Combat medics provide more long-term care and will, for example, assist with a soldier's feet or treat soldiers that are sick. Further, with regard to trauma, the combat medic does more, including providing blood transfusions and performing carotid endarterectomy. (Tr. at 25-26.)

47. Kutz was deployed to Jordan for ten months, starting in October 2021. While there, Kutz was responsible for the medical operations and readiness of an entire base regarding emergency and normal medicine. He was responsible for writing medical protocols and procedures and then training personnel on those procedures. He organized a "walking blood base," where they tested blood types so everybody could donate immediately in times of need. He was also responsible for re-establishing an inventory system for his aid station and for the medical records and training. Kutz was the medical expert for the base and had to participate in all the committee meetings for base-wide operations. (Tr. at 27-29.)

48. Kutz received many rewards during his military service, including a Meritorious Service Medal. (Tr. at 30-31.)

49. Kutz believed that his military service prepared him well for the essential responsibilities of the Deputy Chief of EMS position. He was the head person in charge of emergency medical operations in the military. Further, he had experience with interacting with personnel and outside agencies because in the military and had to deal with local entities, contractors, logistics, and numerous other groups. While on leave in the military, Kutz also oversaw subordinates. (Tr. at 36-39.)

50. When he returned to the Fire District, Kutz had to be reassessed on performing his firefighter duties and his paramedic skills. He also rode on the truck for two weeks to make sure he was “on par” with everything. (Tr. at 29-30.)

51. Kutz was honorably discharged from the military in April 2023. (Tr. at 30-31.)

52. During Kutz’s interview, he was asked about his opinion on training and continuing education. Kutz responded that he enjoyed watching TED Talks⁴ and had taken the initiative to reach out to Lee County EMS’s duty officers about different types of training. (Tr. at 192.)

53. During the interview, when he was discussing meetings, Kutz commented that he did not need to attend everything and that the Fire District has other people that

⁴ TED Talks are short and engaging multi-media presentations on technology, entertainment, and design on diverse topics, presented by a variety of experts.

can perform do some of those tasks, which was more of a hands-off approach than Wilson's. (Tr. at 196.)

54. Tact is an important part of the Deputy Chief of EMS position because procedures will change and the Deputy Chief of EMS is responsible for getting personnel to pivot and do things differently, even if some people are resistant to change. Kutz needed to work on his tact. He could go into some things headstrong and needed to improve inspiring people to want to do what he wanted without relying solely upon authority. (Tr. at 193-94.)

55. DeWitt wanted the Deputy Chief of EMS to be positive about training and help to foster change and get the Fire District's crew ready. Kutz could have a negative outlook on training and believed the testing occurred so they could put people in remediation or show employees' deficiencies. (Tr. at 195.)

56. In May 2021, Kutz was placed on remediation after Training Captain Wilson performed an EMS assessment with him that demonstrated that his skills were not as efficient as they needed to be. Kutz was very boisterous regarding why he did not believe that he should be placed on remediation. DeWitt was troubled with promoting Kutz to Deputy Chief of EMS in light of how argumentative Kutz was regarding being on remediation to improve his EMS skills. (Tr. at 195; 231-32.)

57. Kutz obtained his Fire Officer III certification, which only about four others in the entire Fire District have. Kutz also took a live tissue course and was a certified strike team leader, in addition to other credentials. (Tr. at 33-34; 66.)

Post-Interview

58. Even after the interviews, DeWitt still recognized how qualified each of the candidates were for the position and did not have an immediate ranking as to who should be Deputy Chief of EMS. (Tr. at 138-140; 182-83.)

59. DeWitt asked Brod to provide him with his summaries and recommendations as to who Brod believed was most qualified. Brod provided these items on the day following the interviews, where he recommended that Wilson was the most qualified for the position. (Tr. at 138-140; 182-83; Ex. R-Q.)

60. DeWitt took that recommendation seriously because the Deputy Chief of EMS would be reporting directly to Brod. (Tr. at 138-140; 182-83; Ex. R-Q.)

61. DeWitt considered each candidate and their personnel files, his own notes from the interviews, and reviewed Brod's recommendation. Because all three candidates were exceptional, it was a close call. (Tr. at 141-42; 241.)

62. DeWitt struggled with the decision for almost two weeks before he made a decision. He looked for what was best for the Fire District, the community, and the personnel and did some "soul searching" to determine who would be the best candidate. (Tr. at 185-87.)

63. DeWitt had the ultimate authority to decide who to hire, and he selected Wilson for the Deputy Chief of EMS. At the time he made his decision, DeWitt determined that Wilson was the best qualified for the position. (Tr. at 141-42; 155; 179; 225.)

64. DeWitt reached this decision because he believed that Wilson was the person most likely to progress the EMS Division forward and would keep the Fire District on the “cutting edge.” DeWitt was impressed with Wilson’s passion to push for the Fire District to have its own ALS transport, Wilson’s connections throughout the region and state, and how she had been vastly involved in the very areas where DeWitt wanted EMS to progress. (Tr. at 160-61.)

65. DeWitt recognized all of Wilson’s certifications and involvement, including that she was an instructor for Handtevy, part of the affiliate faculty, an incident safety officer, and a burn master (who has ultimate control over the burn facility). (Tr. at 159-62; 173.)

66. DeWitt also thought it was important for the Deputy Chief of EMS to desire to attend the meetings. (Tr. at 173.)

67. DeWitt then called the candidates back to speak with him in his office. When Kutz spoke to DeWitt, he told Kutz that he interviewed very well for the position and that all three candidates were equally qualified. He also mentioned that Wilson had been doing the job by assisting Madden with jobs that he did not want to perform.⁵ (Tr. At 50-51; 142.)

⁵ Brod testified differently and thought that DeWitt’s comment that the candidates were equal was said later in the hallway and that DeWitt instantly corrected himself to say that everybody was minimally qualified. Brod then testified that Kutz asked him to put it in writing that everybody was equally qualified. I credit DeWitt and Kutz’s testimony on this issue and discredit Brod. Brod was unsure in his recollection, and there would be no reason for Kutz to ask DeWitt to put it in writing that everybody was equal if that matter had been immediately corrected. (Tr. at 262-66.)

68. DeWitt told Kutz that all three candidates were equal because Kutz was his friend and an 18-year colleague. DeWitt also did not want Kutz to develop a bad attitude or become disgruntled. (Tr. at 156.)

69. Kutz asked whether DeWitt considered his Fire Officer III certification. DeWitt responded that maybe Kutz could be more qualified, but that Wilson was being promoted to the job. When Kutz asked about receiving veteran's preference, DeWitt replied that Kutz was entitled to only an interview. (Tr. at 51; 54.)

70. Kutz walked to Jenny Transou's office in Human Resources. Transou was not in her office so Kutz returned to DeWitt's office and asked if DeWitt would put his statement that they were equally qualified in writing. DeWitt declined, stating that based on Kutz's statement that he had the Fire Officer III certification, perhaps that meant Kutz was more qualified. (Tr. at 55-56.)

71. Afterwards, Kutz asked to speak with DeWitt, but he was unavailable. Kutz spoke to Brod to show him how Kutz should have been given preference if all candidates were equal. Brod asked Kutz to give him a week or so to make it right, but Kutz never heard back. (Tr. at 58-59.)

72. After Kutz learned that he did not obtain the promotion, he filed a grievance. (Tr. at 149).

73. In response to the grievance, DeWitt met with the Human Resources Director Transou and directed her to compile the qualifications of all the candidates. Two of Wilson's prior performance reviews were considered, but Kutz's performance reviews were not produced. In addition, DeWitt wrote a document where he used his notes from

the interview and compared the positive and negative traits of each candidate in an effort to justify his selection. (Tr. at 148-154.)

74. The Fire District held a meeting with Kutz, his union representative, the union secretary, DeWitt, and Transou. DeWitt admitted that he stated all candidates were equal but said that he made that comment to be nice. He then provided a matrix that compared the three candidates side-by-side. However, Kutz noticed that a significant portion of his career was left off the chart.⁶ Tr. at 59-62; 149.

75. Kutz filed a complaint with the Veteran's Affairs.

ANALYSIS AND DISCUSSION

When alleging a violation of Chapter 295, Florida Statutes, a veteran has the initial burden to show: (1) he is preference eligible; (2) he filed a timely and proper application for a covered position; (3) he possessed the minimum qualifications for that position; and (4) the employer hired a non-veteran or a non-eligible veteran to fill the position. *West Coast Regional Water Supply Authority v. Harris*, 604 So. 2d 892, 893 (Fla. 1st DCA 1992) (quoting *Wade v. Comptroller of Orange County*, 17 FPER ¶ 22502 (1990)). After such a showing, the burden shifts to the employer to show that the selected person was more qualified for the position than the complainant. *Id.* If the employer can demonstrate that the candidates it hired were more qualified than the complainant, there is no

⁶ I have not relied on this matrix in determining who was more qualified for the position.

statutory violation of the veterans' preference law. *City of Deland v. Landolfi*, 97 So. 3d 869, 873-74 (Fla. 1st DCA 2012).

The employer bears the burden to show that Wilson was the more qualified candidate for the position. See *School District of Collier County v. Fuqua*, 136 So. 3d 687, 689 (Fla. 2d DCA 2014) (citing *Landolfi*, 97 So. 3d at 874). Courts have construed "more qualified" to mean the "applicant whose experience most closely encompasses the background an employer seeks in filling a position." *Id.* (quoting *Zumwalt v. Palm Beach County Community College*, 16 FPER ¶ 12510 (1990)). Deciding which candidate is more qualified is a fact determination for the hearing officer, who can consider the employer's knowledge of the successful candidate's qualifications as well as the veteran's deficiencies in determining whether the successful candidate was more qualified. See *Harris*, 604 So. 2d at 894; *Wiley v. Department of Transportation*, 46 FPER ¶ 121 (2019).

In this case, the parties stipulated that Kutz was preference eligible, filed a timely and proper application for a covered position, possessed the minimum qualifications for that position, and the Fire District filled the position with a non-veteran. Accordingly, Kutz fulfilled his initial burden, and the Fire District bears the burden to demonstrate that Wilson was more qualified for the position. Deciding which candidate is more qualified is a factual question. *Id.* at 690-91; *Eldridge v. Pinellas County Board of County Commissioners*, 45 FPER ¶ 387 (2019), *per curiam aff'd*, 291 So. 3d 945 (Fla. 2d DCA 2020).

As an initial matter, I note that DeWitt told Kutz that the candidates were equally qualified and that he was choosing to promote Wilson to the position regardless of Kutz's veteran's preference. DeWitt testified at the hearing that he said this because DeWitt and Kutz were friends and he did not want Kutz to be disgruntled. I credit his testimony as it was consistent with his earlier statements. Further, it was clear DeWitt felt that Kutz was a friend, and such conversations with friends are awkward. However, even if DeWitt failed to give Kutz the preference to which he was entitled, the Commission cannot grant relief for a violation in the hiring process where the Commission determines that the ultimate hiring decision did not violate Chapter 295. *City of Deland v. Landolfi*, 97 So. 3d 869, 873-74 (Fla. 1st DCA 2012). Thus, this case resolves around whether the Fire District hired the most qualified candidate for the position.

In turning to that issue, I find that Wilson was the most qualified candidate for the position at issue. One of the essential job responsibilities of the Deputy Chief of EMS is ensuring quality control of emergency medical operations. Wilson had exhibited significant initiative while she was at the Fire District, even when those matters were not within the scope of her job. Wilson and the prior Deputy Chief of EMS were successful in obtaining a way for the Fire District to access the hospital computers so they could track their patients' entire medical progress. Wilson was also involved in finding solutions to other issues that impacted the Fire District. She was helping the Fire District to obtain their own ALS transport so the Fire District would not need to rely on obtaining a unit from another county. In addition, Wilson was seeking a resolution for their computer-aided dispatch to talk to Collier County's computer-aided dispatch. DeWitt had been working

on improving those issues for decades. Although Kutz was responsible for ensuring quality control of emergency medical operations during his time in Jordan, being a combat medic in the military was different from being a paramedic. Moreover, Wilson had taken the initiative and was working on resolving issues that DeWitt had been working on for decades.

Two other essential responsibilities of this position were participating in committees and meetings, as well as interacting as the officer-in-charge with personnel and outside agencies in emergency and non-emergency situations as needed. Wilson attended numerous meetings, including the Medical Care Council, fostering county-wide training, a protocol subcommittee, and the Incident Management Team. She also had connections throughout the region and at the state level with other EMS Chiefs, which could be helpful. In fact, two medical directors provided reference letters in support, demonstrating how well she worked with various professionals in the area. In contrast, Kutz mentioned in his interview that he had more of a hands-off approach.

Finally, the Deputy Chief of EMS oversees and conducts educational training sessions in emergency medical care and ensures that all personnel know and follow the Fire District's rules and operating procedures. As Training Captain, Wilson was already involved in training and ensuring personnel were properly trained. She did not see the safety procedures as a punishment but viewed training as a positive. Wilson wanted personnel to be able to train using a more hands-on approach when new equipment was involved, so people had a chance to become familiar with the equipment. She also wanted to progress the classes offered to the public that would assist in medical

emergencies, like a CPR class that incorporates the automatic external defibrillator and a Stop the Bleed program. In contrast, when Wilson as a Training Captain performed a training assessment on Kutz, he was unhappy that he was required to do remediation and had a negative view on training and on being placed on remediation.

While Kutz obtained his Fire Officer III certification, which is impressive, it is unclear how relevant this certification is to EMS. Further, certifications alone rarely make one person more qualified than another.

Overall, while it is readily apparent that Kutz is highly respected and an exemplary candidate, I find that Wilson is the most qualified for the position at issue. See, e.g., *Wiley v. Department of Transportation*, 46 FPER ¶ 121 (2019) (determining that the non-veteran was more qualified because her interpersonal skills were better than the veteran's and because of her work including stepping up to take over the duties of the manager).

CONCLUSIONS OF LAW

1. The Fire District is a covered employer.
2. Deputy Chief of EMS is a covered position.
3. Kutz was minimally qualified for the position.
4. The Fire District did not violate the veterans' preference laws because it hired the candidate who was most qualified for the position.

RECOMMENDATION

I recommend that the Commission adopt this recommended order and deny Kutz's complaint.

Any party may file exceptions to my recommended order, but exceptions must be received by the Commission within **fifteen days** from the date of this order. See § 110.227(6)(d), Fla. Stat.; Fla. Admin. Code R. 28-106.217.

ISSUED and SUBMITTED to the Public Employees Relations Commission and SERVED on all parties this 11th day of March, 2026.

A handwritten signature in black ink, reading "Lyyli Van Whittle". The signature is written in a cursive style with a large, sweeping loop at the end.

LYYLI VAN WHITTLE
Hearing Officer

LVW/lah

COPIES FURNISHED:

For Respondent
Charlotte Manapat-Nguyen, Esquire
Brian D. Rubenstein, Esquire

For Complainant
James C. Poindexter, Esquire