

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Jeffrey K. Stapleton,

Case Nos. 09-INV-12-0507
09-MIS-12-0508

Appellant,

v.

Department of Youth Services Central Office,

Appellee.

ORDER

This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the instant appeals be **DISMISSED**, for lack of jurisdiction, pursuant to O.A.C. § 124-1-03(F) and O.R.C. § 124.03.

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



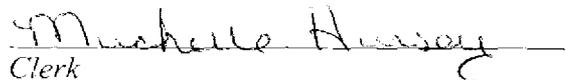


J. Richard Lumpe, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitute ~~(the original)~~ a true copy of the original order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, April 22, 2010.



Michelle Hunsay
Clerk

NOTE: Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.

4-22-10 mH

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Jeffrey K. Stapleton,

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v.

Department of Youth Services, Central Office,

Appellee

Case Nos. 09-INV-12-0507
09-MIS-12-0508

March 26, 2010

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on pursuant to Appellee's Motion to Dismiss, filed with this Board on January 22, 2010. Appellee asserts that this Board may not consider the above-referenced appeals as they are either untimely filed or outside the scope of actions over which this Board has been granted jurisdiction. Appellant filed no memorandum *contra*.

Upon a review of the uncontroverted information contained in the record, I find that Appellee's arguments are well-taken. Appellant's appeal to this Board recited several complaints which he requested that this Board review. He alleged that Appellee had improperly assigned him the duties of a Youth Grievance Coordinator upon his return from disability retirement in 2007. He further alleged that Appellee had improperly made a temporary reassignment of his duties in November 2009 pursuant to an internal investigation of his work performance.

I find that this Board is without jurisdiction to consider Appellant's request for a review of Appellee's allegedly improper assignment of Youth Grievance Coordinator job duties in 2007 because the appeal was untimely filed. Even assuming, *arguendo*, that such action could be appealed to this Board under the auspices of its investigatory jurisdiction, Appellant's appeal would have had to have been filed within six months of Appellant's knowledge of Appellee's alleged violation of Chapter 124. of the Revised Code. See, O.A.C. 124-1-03(F). The instant appeals were filed approximately two years after Appellant had knowledge of the alleged violation.

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I further find that this Board may not consider Appellant's request for a review of Appellee's allegedly improper temporary reassignment of his duties in November 2009 because such action is outside the scope of the jurisdiction explicitly conferred upon the Board by the Ohio General Assembly. Ohio Revised Code Section 124.03 grants this Board authority to review suspensions of more than three days, removals, reductions, layoffs and abolishments. The temporary reassignment of job duties is not an action that is reviewable by this Board.

Therefore, I respectfully **RECOMMEND** that the instant appeals be **DISMISSED** for lack of jurisdiction.


Jeannette E. Gunn
Administrative Law Judge

JEG: