

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

James Reynolds,

*Appellant,*

v.

Case No. 09-RED-12-0517

Department of Rehabilitation and Correction,  
Northeast Pre-Release Center,

*Appellee.*

**ORDER**

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

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 appeal be **DISMISSED** for lack of jurisdiction over the parties, pursuant to O.R.C. § 124.27 (C).



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, March 3, 2010.

  
\_\_\_\_\_  
*Clerk*

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

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**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

James Reynolds,

Case No. 09-RED-12-0517

*Appellant*

v.

February 10, 2010

Department of Rehabilitation & Correction,  
Northeast Pre-Release Center,

*Appellee*

Jeannette E. Gunn  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration on February 10, 2010, pursuant to Appellee's Motion to Dismiss, filed with this Board on January 29, 2010. Appellant filed a memorandum *contra* with this Board on February 4, 2010.

Based upon the uncontroverted information contained in the record, I find that Appellant was appointed to the position of Corrections Captain, on August 16, 2009. I further find that this classification was assigned a 180-day probationary period. Appellant's appointment was a promotion from the position of Corrections Lieutenant.

Appellant asserted in his memorandum *contra* that he was actually performing the duties of Corrections Captain prior to his official appointment. Ohio Administrative Code Section 123:1-19-01 provides that an employee in the classified civil service shall serve a probationary period following each promotion (emphasis added). Accordingly, I find that even if Appellant were performing the duties of the position prior to August 16, 2009, no probationary period would begin to run until the effective date of his promotional appointment.

Appellant was reduced during his probationary period. Because there is no right to appeal from a reduction which occurs during a probationary period, I conclude that the State Personnel Board of Review does not have subject matter jurisdiction, pursuant to the operation of Ohio Revised Code Section 124.27(C) and 124.03.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of jurisdiction over the parties.



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Jeannette E. Gunn  
*Administrative Law Judge*

JEG: