

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

Tamara J. Beach,

*Appellant,*

v.

Case No. 09-REM-08-0369

Worth 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, pursuant to O.R.C. §§ 124.03, 2301.50 through 2301.55, 5120.111 and O.A.C. Chapter 5120:1-14.

Lumpe - Aye  
Sfalcin - Aye  
Tillery - Aye

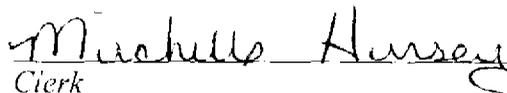


  
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J. Richard Lumpe, *Chairman*

**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, November 6, 2009.

  
\_\_\_\_\_  
Michelle Hursey  
*Clerk*

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

11-6-09 mt

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

Tamara J. Beach

Case No. 09-REM-08-0369

*Appellant*

v.

September 21, 2009

Worth Center

Marcie M. Scholl

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on for consideration on the filing of a notice of appeal by Appellant Beach on August 14, 2009. Appellant Beach is appealing her alleged removal or resignation from the WORTH center, effective August 6 or 7, 2009. In a previous case before this Board, *Boyle v. Worth Center*, Case No. 02-REM-12-0503, Board Order issued May 29, 2003, this Board determined there is a lack of jurisdiction on the part of the Board over the WORTH center.

The WORTH Center is an acronym for The Western Ohio Regional Treatment and Habilitation Center. It is a community based correctional facility, established in May 1990 by seven counties and is a creature of statute, namely sections 2301.50 through 2301.55 of the Ohio Revised Code. Section 2301.51(A)(2) of the Ohio Revised Code states as follows:

2) The courts of common pleas of two or more adjoining or neighboring counties that have an aggregate population of two hundred thousand or more may form a judicial corrections board and proceed to organize a district and formulate a district community-based correctional proposal that, upon implementation, would provide a district community-based correctional facility and program for the use of the member courts in accordance with sections 2301.51 to 2301.56 of the Revised Code.

The WORTH Center was created under the above quoted statute and is administered by a judicial corrections board made up of the judges of Common Pleas courts in the seven counties served by the WORTH Center.

Under section 5120.111 of the Ohio Revised Code, the Department of Rehabilitation and Correction is charged with the responsibility of promulgating rules for community based correctional facility such as the WORTH center. That statute reads as follows, in pertinent part:

With respect to community based correctional facilities and programs and district community based correctional facilities and programs authorized under section 2301.51 of the Revised Code, the department of rehabilitation and correction shall do all of the following:

(A) Adopt rules, under Chapter 119.. of the Revised Code, that serve as criteria for the operation of community-based correctional facilities and programs and district community-based correctional facilities and programs approved in accordance with sections 2301.51 and 5120.10 of the Revised Code;

(B) Adopt rules, under Chapter 119. of the Revised Code, prescribing the minimum educational and experience requirements that must be satisfied by persons who staff and operate the facilities and programs;

As can be seen from reading the above statutes, the Department of Rehabilitation and Correction has the authority and responsibility to promulgate administrative rules for the operation and governance of the community based facilities and employees. The Department of Rehabilitation and Correction, pursuant to the above statute, promulgated administrative Chapter 5120:1-14 of the Ohio Administrative Code. Rule 5120:1-14-03 of that chapter specifically governs the community based facilities and paragraph (P) of that rule states as follows:

**5120:1-14-03 Minimum standards for the community corrections boards in the operation of community based correctional facilities.**

(P) **Persons hired to staff community-based correctional facilities and programs shall be unclassified employees of judicial corrections boards** or contract providers. Each judicial corrections board shall develop and adopt personnel policies and procedures for hiring, promoting, demoting, suspending, and removing its employees. The personnel policies and procedures shall provide for due process and equal employment opportunity. (Emphasis added).

From reading the above administrative rule (which has the force and effect of law), it is clear that all employees of community based correctional facilities are unclassified employees.

This Board does not have jurisdiction over unclassified employees. Unlike a court of general jurisdiction, this Board has only the authority given to it by statute. Section 124.03 of the Ohio Revised Code specifically limits this Board's jurisdiction to those employees in the classified service. That statute states in pertinent part:

The state personnel board of review shall exercise the following powers and perform the following duties:

(A) Hear appeals, as provided by law, of **employees in the classified state service** from final decisions of appointing authorities or the director of administrative services... (Emphasis added).

Since it is clear that Appellant Beach, as an employee of a community based correctional facility, is in the unclassified service of the state, this Board does not possess jurisdiction over her alleged removal or resignation.

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Therefore, it is my **RECOMMENDATION** that this appeal be **DISMISSED** due to a lack of jurisdiction of this Board pursuant to sections 124.03, 2301.50 through 2301.55, 5120.111 of the Ohio Revised Code and Chapter 5120:1-14 of the Ohio Administrative Code.



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Marcie M. Scholl  
*Administrative Law Judge*

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