

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

Daniel A. Graham,

Appellant,

v.

Case No. 10-MIS-06-0161

Lake Metro Parks,

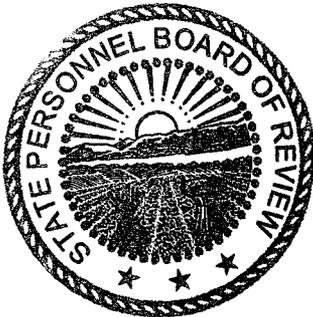
Appellee.

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 its subject matter, pursuant to O.R.C. §§ 124.03, 1545.07 and 1545.13.



Lumpe - Aye
Tillery - Aye



J. Richard Lumpe, *Chairman*

CERTIFICATION

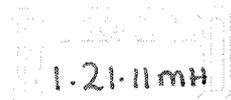
The State of Ohio, State Personnel Board of Review, ss:

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, January 21, 2011.



Clerk

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



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

DANIEL A. GRAHAM,

Case No. 10-MIS-06-0161

Appellant

v.

December 9, 2010

LAKE METRO PARKS,

Appellee

JAMES R. SPRAGUE
Administrative Law Judge

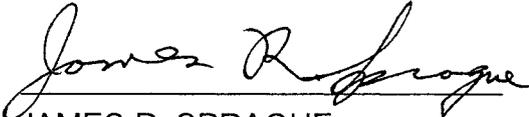
REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration due to Appellant's June 11, 2010 filing of an appeal from his alleged constructive discharge from the position of part-time Sworn Law Enforcement Officer with Appellee, Lake Metro Parks.

The State Personnel Board of Review has established the precedent that it does not have jurisdiction to hear direct appeals from employees of boards of park commissioners employed under R.C. 1545.07 ("Board of park commissioners - employees."). See *Pirsil v. Geauga Park District* (SPBR Case No.94-REM-01-0003, Report and Recommendation issued May 27, 1994, final Order dismissing for lack of subject matter jurisdiction issued October 04, 1994). Further, neither R.C. 1545.07 nor R.C. 1545.13 ("Park commission employees designated as law enforcement officers.") expressly provides this Board with authority hear an appeal from an alleged constructive discharge of a Law Enforcement Officer employed by a board of park commissioners. Accordingly, the rather extensive record developed in this matter does not at this time demonstrate a sufficient reason to set aside current Board precedent on this issue.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 124.03, R.C. 1545.07, and R.C. 1545.13.


JAMES R. SPRAGUE
Administrative Law Judge