

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

Dwight L. Bethel,

Appellant,

v.

Case No. 2012-IDS-01-0018

Department of Rehabilitation & Correction,
Chillicothe Correctional Institution,

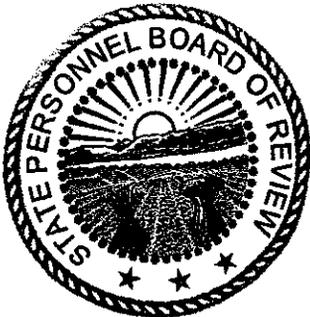
Appellee,

ORDER

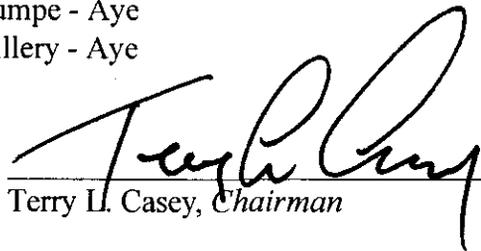
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including 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 Appellee's motion is **GRANTED** and the instant appeal is **DISMISSED**, due to Appellant's current and continuing receipt of an OPERS disability retirement benefit, pursuant to R.C. 124.03.



Casey - Aye
Lumpe - Aye
Tillery - Aye



Terry L. Casey, *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 constitutes ~~(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, May 29, 2014.



Erin E. Con
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**

Dwight L. Bethel

Case No. 2012-IDS-01-0018

Appellant

v.

April 29, 2014

Department of Rehabilitation and Correction,
Chillicothe Correctional Institution

Appellee

James R. Sprague
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on due to Appellant's timely filing of an appeal from his receipt of an Order of Involuntary Disability Separation from his position of Correction Officer. Thereafter, the record was developed and Appellant pursued and was granted various forms of benefits. This process culminated with Appellant being granted a disability retirement benefit (DRB) from OPERS, with that DRB being made retroactive to February 1, 2012.

On April 10, 2014, Appellee filed Appellee's Motion to Dismiss, Memorandum in Support, the Affidavit of Gina Seel, Personnel Director of Chillicothe Correctional Institution's Office of Human Resources, and various supporting documents. Understandably, since Appellant is currently on a DRB, Appellant did not file a Memorandum *Contra*.

The uncontested facts of this case demonstrate that Appellant is and has been for some time on an OPERS DRB. Accordingly, Appellant is precluded from being able to claim that he could have performed the essential duties of his position basically for the span of the instant appeal. Accordingly, this case should be dismissed.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** the instant appeal, due to Appellant's current and continuing receipt of an OPERS disability retirement benefit, pursuant to R.C. 124.03.


James R. Sprague
Administrative Law Judge