

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

JASON HARRIS,

Appellant,

v.

Case No. 12-IDS-01-0030

DEPARTMENT OF YOUTH SERVICES,
CUYAHOGA HILLS JUVENILE CORRECTIONAL FACILITY
and
DEPARTMENT OF YOUTH SERVICES, CENTRAL OFFICE,

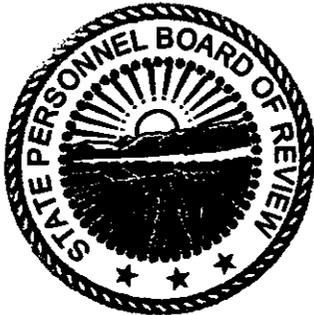
Appellees

ORDER

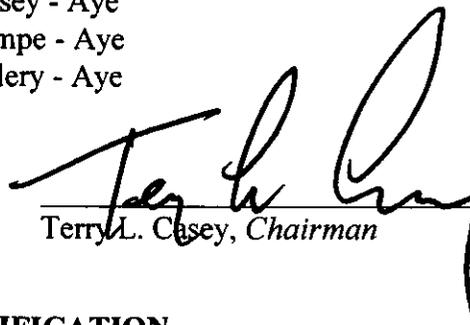
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 the appeal is **DISMISSED**.



Casey - Aye
Lumpe - Aye
Tillery - Aye

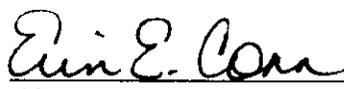

Terry L. Casey, Chairman

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, August 22, 2012.




Erin E. Conn
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**

Jason Harris,

Case No. 12-IDS-01-0030

Appellant

v.

April 23, 2012

Department of Youth Services,
Cuyahoga Hills Juvenile Correctional Facility

and

Department of Youth Services,
Central Office,
Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for consideration on April 23, 2012, upon Appellee's Response to Procedural Order, filed with this Board on March 7, 2012, and Appellee's Supplemental Response to Procedural Order, filed with the Board on March 28, 2012.. Appellant did not file an optional Reply to Appellee's Response or its Supplemental Response.

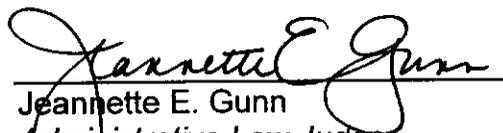
On January 27, 2012, Appellant filed a notice of appeal from his involuntary disability separation, effective January 29, 2012. In Appellee's Response, Appellee asserted that Appellant was receiving temporary total disability benefits from the Bureau of Workers Compensation; Appellee's Supplemental Response provided documentation to demonstrate that Appellant was on Occupational Injury Leave from December 6, 2011, to and through the date of his involuntary disability separation, had been approved by the Bureau of Workers Compensation for injuries to his left and shoulder and right elbow as of January 23, 2012, and received temporary total disability benefits from the Bureau of Workers Compensation for at least the period covering January 29, 2012, through March 24, 2012.

The question to be answered at record hearing in the instant appeal would be if Appellant was capable of performing the essential duties of his position as of the date of his involuntary disability separation. It would be fraudulent for Appellant to

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argue that he could perform his duties as of that date and, at the same time, collect occupational injury and/or temporary total disability leave benefits from the Bureau of Workers Compensation; Appellant cannot argue to this Board that he could perform his duties and at the same time argue to the Bureau of Workers Compensation that he could not do those duties.

Therefore, based on the above rationale, it is my **RECOMMENDATION** that this appeal be **DISMISSED**.


Jeannette E. Gunn
Administrative Law Judge

:jeg