

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

DONALD J. BATES,

*Appellant,*

v.

Case No. 12-REM-08-0170

LORAIN COUNTY VETERANS SERVICE COMMISSION,

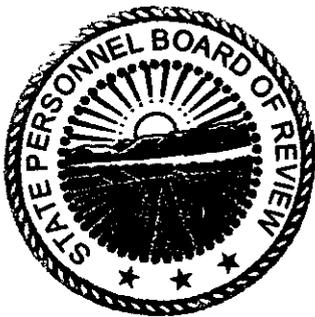
*Appellee*

**ORDER**

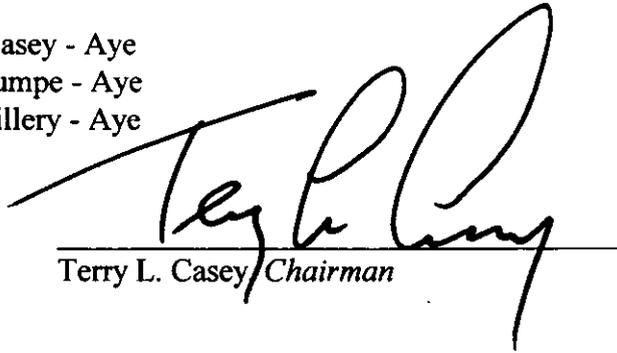
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 this matter 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, January 16, 2013.

  
Ann E. Conn  
Clerk

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

1-16-13

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

Donald J. Bates,

Case No. 12-REM-08-0170

*Appellant*

v.

December 3, 2012

Lorain County Veterans Service  
Commission,

Jeannette E. Gunn  
*Administrative Law Judge*

*Appellee*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on for consideration pursuant to Appellee's Motion to Dismiss, filed with this Board on November 23, 2012. Appellee requests that the Board dismiss the instant appeal as moot, since Appellant's August 5, 2012, removal was rescinded and Appellant was subsequently reinstated to his position as Executive Director and Veterans Service Officer on August 7, 2012, with no loss of pay. Appellant responded on November 29, 2012, alleging that Appellee violated the Ohio Open Meetings Act.

Based upon the information contained in the record, I find that Appellant was terminated from his position as Executive Director on August 5, 2012. His termination was subsequently rescinded and Appellant was reinstated to his position of employment with Appellee on August 7, 2012, with no loss of pay or position.

**CONCLUSIONS OF LAW**

Unlike a court of general jurisdiction, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Ohio Revised Code Section 124.03 grants this Board authority to review suspensions of more than three days, removals, reductions, layoffs and abolishments. Appellant's removal was rescinded and he suffered no loss of pay or position as a result of Appellee's actions, therefore, no adverse employment action exists over which this Board may exercise jurisdiction.

Donald J. Bates  
Case No. 12-REM-08-0170  
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Appellant alleged that Appellee violated Ohio's Sunshine Laws, specifically, Chapter Two of the Ohio Open Meetings Act. A violation of the Ohio Open Meetings Act is not an action which is appealable to this Board. Ohio Revised Code Section 121.22(I)(1) provides, however, that any person who believes that a public body has violated or intends to violate the Ohio Open Meetings Act, may file suit in common pleas court to enforce the law's provisions.

Upon a review of the entire record, I find that no other justiciable issue remains over which this Board may assert jurisdiction, and that the instant appeal is moot. Therefore, I respectfully **RECOMMEND** that Appellee's Motion be **GRANTED** and this matter be **DISMISSED**.

  
Jeannette E. Gunn  
Administrative Law Judge