

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

LAVEL JONES,

Appellant,

v.

Case No. 12-REM-09-0210

SUMMIT COUNTY JUVENILE DETENTION CENTER,

Appellee

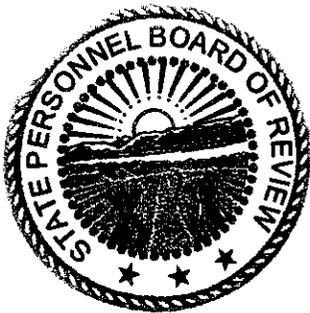
ORDER

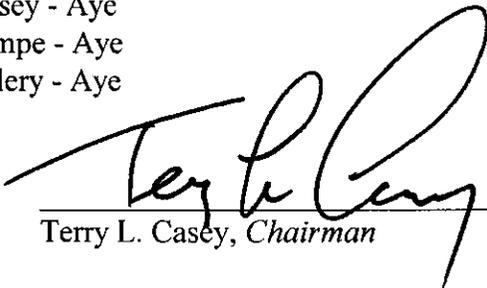
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the 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 Appellee's Motion is **GRANTED** and the instant appeal is **DISMISSED** for lack for jurisdiction over the parties.

Casey - Aye
Lumpe - Aye
Tillery - Aye

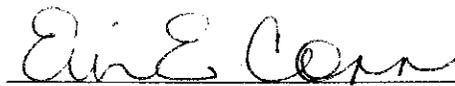



Terry L. Casey, *Chairman*

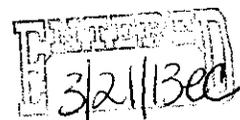
CERTIFICATION

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, March 21, 2013.


Aimee 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**

Lavel Jones,	Case No. 12-REM-09-0210
<i>Appellant</i>	
v.	December 4, 2012
Summit County Juvenile Detention Center,	
<i>Appellee</i>	Jeannette E. Gunn <i>Administrative Law Judge</i>

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration pursuant to an appeal filed by Appellant of his removal from employment with Appellee as a part-time Detention Officer. On October 5, 2012, Appellee filed a Motion to Dismiss alleging that the Board lacked jurisdiction to consider the appeals because Appellant was a member of the unclassified civil service. Appellee filed a supplemental affidavit to its Motion on November 21, 2012. No memorandum *contra* was filed by Appellant.

Based upon the uncontroverted evidence contained in the record, I make the following findings of fact:

Prior to his removal, Appellant held the position of part-time Detention Officer.

Appellant was appointed to his position by Juvenile Court Judge Linda Teodosio on or about October 14, 2005, pursuant to the authority granted by R.C. 2151.13.

Appellant was removed from his position of employment with Appellee effective August 6, 2012.

CONCLUSIONS OF LAW

This Board does not possess subject matter jurisdiction over the removal of an unclassified employee since Ohio Revised Code Section 124.03 limits this Board's jurisdiction to actions concerning classified employees. Appellee argued that

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Appellant's position was statutorily exempted from the civil service pursuant to R.C. 124.11(A)(32), which designates as exempt from the classified service those employees who are placed in the unclassified service by another section of the Revised Code.

Undisputed evidence was presented by Appellee to establish that Appellant was duly appointed to his position pursuant to R.C. 2151.13. That section of the Revised Code indicates that those employees so appointed serve at the pleasure of the appointing authority. An employee who serves "at the pleasure" of an appointing authority is an at-will employee, and falls within the unclassified civil service.

Accordingly, I find that Appellant's position was exempted from the classified civil service pursuant to R.C. 124.11(A)(32). I respectfully **RECOMMEND** that Appellee's Motion be **GRANTED** and the instant appeal be **DISMISSED** for lack of jurisdiction over the parties.


Jeannette E. Gunn
Administrative Law Judge

JEG: