

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Randy McGuire,

Appellant,

v.

Case No. 2013-RED-09-0244

WORTH Center,

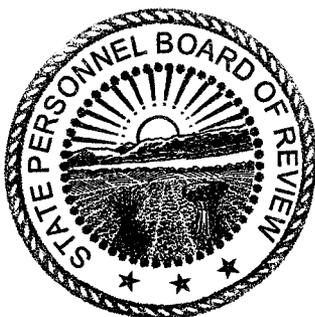
Appellee.

ORDER

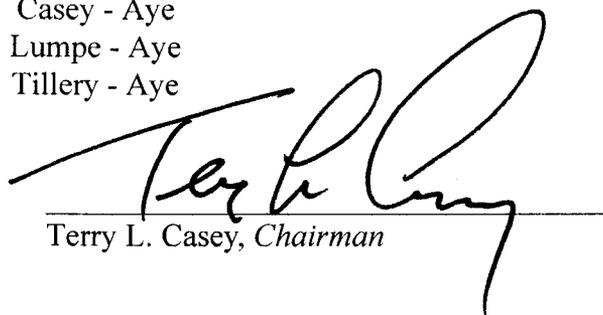
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 instant appeal is **DISMISSED** for a lack of jurisdiction.



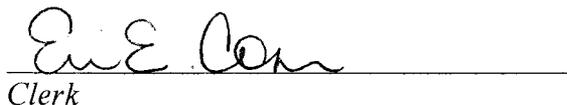
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, December 18, 2013.


Clerk

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

12/18/13cc

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

Randy Mcguire,

Case No. 2013-RED-09-0244

Appellant

v.

November 18, 2013

WORTH Center

Marcie M. Scholl

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon Appellant's notice of appeal, filed on September 30, 2013 and Appellee's Motion to Dismiss, filed on October 17, 2013. To date, Appellant McGuire has not filed a memorandum *contra*.

Appellee correctly argues this Board is without jurisdiction over the Appellee. Unlike a court of general jurisdiction, this Board has only the jurisdiction granted to it by statute. Section 124.03 of the Ohio Revised Code states in pertinent part:

(A) The state personnel board of review shall exercise the following powers and perform the following duties:

(1) **Hear appeals, as provided by law, of employees in the classified state service** from final decisions of appointing authorities or the director of administrative services relative to reduction in pay or position, job abolishments, layoff, suspension, discharge, assignment or reassignment to a new or different position classification, or refusal of the director, or anybody authorized to perform the director's functions, to reassign an employee to another classification or to reclassify the employee's position with or without a job audit under division (D) of section 124.14 of the Revised Code. As used in this division, "discharge" includes disability separations. (Emphasis added).

Appellant McGuire served in the unclassified service pursuant to Administrative Rule 5120:1-14-03(L) of the Ohio Administrative Code. That rule states as follows:

(L) Persons hired to staff community-based correctional facilities and programs shall be **unclassified employees** of facility governing boards or contract providers. Each facility governing board shall develop and adopt personnel policies and procedures for hiring, promoting, demoting, suspending, and removing its employees. (Emphasis added).

Appellant McGuire was employed by the Western Ohio Regional Treatment and Habilitation (WORTH) Center, which is a community based treatment/correctional facility established under Ohio Revised Code section 2301.51, *et seq.* Therefore, pursuant to the above administrative rule, Appellant McGuire, as an employee of the WORTH center was deemed to be an unclassified employee. As stated previously, this Board only has jurisdiction over those employees deemed to be classified.

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for a lack of jurisdiction.



Marcie M. Scholl
Administrative Law Judge