

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

Marcus Kpanlin,

Appellant,

v.

Case No. 2013-REM-09-0256

Cuyahoga County Board of Developmental Disabilities,

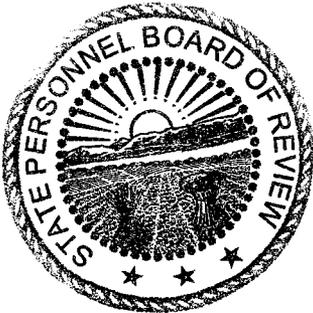
Appellee.

ORDER

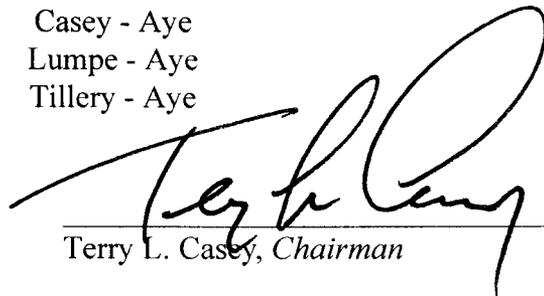
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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** due to 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.

12/18/13eo

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

Marcus Kpanlin,

Case No. 2013-REM-09-0256

Appellant

v.

November 18, 2013

Cuyahoga County Board of
Developmental Disabilities

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon the filing of a notice of appeal by Appellant Kpanlin on September 23, 2013 and upon Appellee's Motion to Dismiss, filed on October 30, 2013. To date, Appellant Kpanlin has not filed a memorandum *contra*.

Appellee correctly argues that this Board is without jurisdiction to hear this matter as Appellant Kpanlin served in the unclassified service. Unlike a court of general jurisdiction, this Board has only the authority granted to it by statute. Pursuant to section 124.03 of the Ohio Revised Code, this Board has jurisdiction to hear appeals from those employees in the classified service of the state. The pertinent part of that statute states as follows:

(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 Kpanlin was employed by the Cuyahoga County Board of Development Disabilities as a Habilitation supervisor and pursuant to section 124.11(A)(19) of the Ohio Revised Code, his position falls into the unclassified service. That section of the statute states as follows:

(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter:

(19) Superintendents, and management employees as defined in section 5126.20 of the Revised Code, of county boards of developmental disabilities;

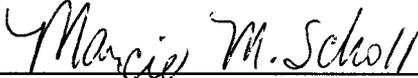
Section 5126.20(C) of the Ohio Revised Code defines "Management employee" as:

(C) "Management employee" means a person employed by a board in a position having supervisory or managerial responsibilities and duties, and includes employees in the positions listed in division (A) of section 5126.22 of the Revised Code.

Section 5126.22 of the Ohio Revised Code states that a "program or service supervisor" is considered to be a management employee. Therefore, since Appellant Kpanlin held the position of Habilitation Supervisor, he falls within the unclassified service and thus this Board does not possess jurisdiction over his appeal.

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



Marcie M. Scholl
Administrative Law Judge

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