

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

Sherrie Patrick,

Appellant,

v.

Case No. 2013-SUS-11-0392

Department of Rehabilitation & Correction,
Correctional Reception Center,

Appellee,

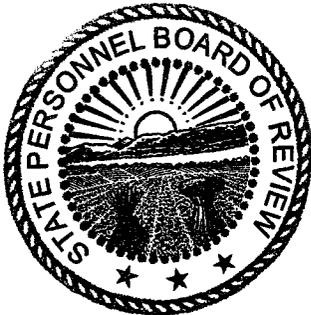
ORDER

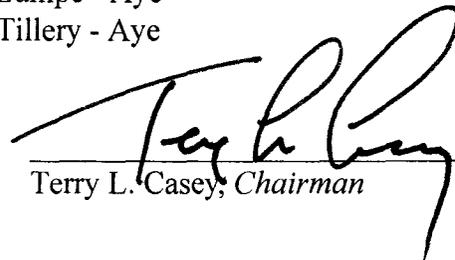
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Appellee's Motion to Dismiss is **GRANTED** and the appeal is **DISMISSED** for lack of subject matter jurisdiction.

Casey - Aye
Lumpe - Aye
Tillery - Aye

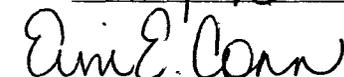



Terry L. Casey, *Chairman*

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, May 16, 2014.


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**

Sherrie Patrick

Case No. 2013-SUS-11-0392

Appellant

v.

March 26, 2014

Department of Rehabilitation & Correction,
Correctional Reception Center

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's filing of an appeal with this Board. I find that Appellant has filed this appeal to protest her five day (40 hour) working suspension, issued by Appellee on October 22, 2013. Appellee filed a Motion to Dismiss with this Board on February 7, 2014, asserting that the Board is without jurisdiction to consider the instant matter because Appellant is an overtime-exempt employee. Appellant filed no memorandum *contra*.

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. In the case of an employee exempt from the payment of overtime compensation, Ohio Revised Code Section 124.03 and 124.34(B) grant this Board the authority to review only those suspensions which exceed forty work hours. Appellant's working suspension does not exceed forty work hours.

Therefore, I respectfully **RECOMMEND** that Appellee's Motion to Dismiss be **GRANTED** and this appeal be **DISMISSED** for lack of subject matter jurisdiction.


Jeannette E. Gunn
Administrative Law Judge