

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

Donald J. McClure,

Appellant,

v.

Case No. 2014-SUS-08-0232

Department of Public Safety,

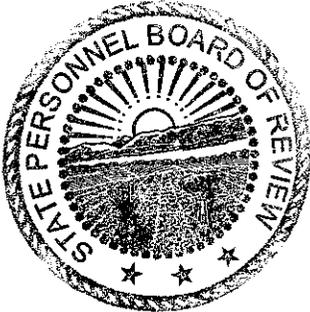
Appellee,

ORDER

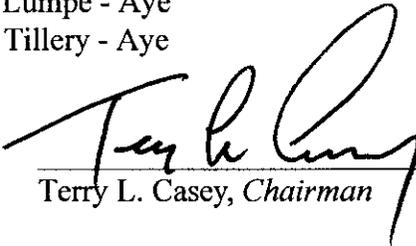
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 lack of jurisdiction over its subject matter, pursuant to R.C. 124.03.



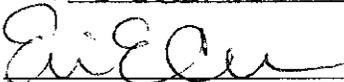
Casey - Aye
Lumpe - Aye
Tillery - Aye


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 17, 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**

Donald J. McClure

Case No. 2014-SUS-08-0232

Appellant

v.

November 7, 2014

Department of Public Safety

James R. Sprague

Appellee

Administrative Law Judge

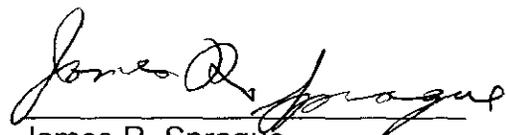
REPORT AND RECOMMENDATION

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 his five-day suspension. Appellant serves in a position that is exempted from the overtime requirements found in the Fair Labor Standards Act (FLSA).

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. R.C. 124.03 grants this Board with authority to review, among other things, suspensions of *greater than* five days for employees who are FLSA overtime-exempt. Since Appellant's suspension is specifically for five days, this Board lacks jurisdiction over the subject matter of this appeal and it should be dismissed, accordingly.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 124.03.


James R. Sprague
Administrative Law Judge