

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

SCOTT A. LIZZI,

Appellant,

v.

Case No. 05-WHB-01-0003

BOWLING GREEN STATE UNIVERSITY,

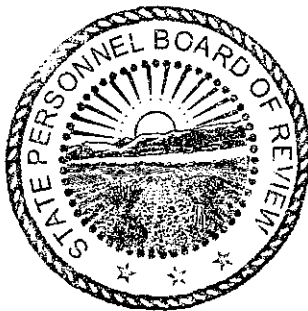
Appellee.

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 record and 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 be **DISMISSED** for lack of a justiciable issue, pursuant to R.C. 124.341.



Tracy – Aye
Lumpe – Aye
Booth – Aye

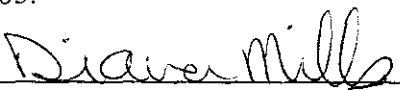


Roger W. Tracy, *Chairman*

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 the foregoing is ~~(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, October 21, 2005.



Diaver Mills
Clerk

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

RECORDED
INDEXED
10/21/05

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

Scott A. Lizzi

Case No. 05-WHB-01-0003

Appellant

v.

August 23, 2005

Bowling Green State University

Marcie M. Scholl

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for consideration on August 23, 2005. Appellant Lizzi filed a notice of appeal with this Board on January 4, 2005. He marked the box entitled "Whistleblower". On May 24, 2005, this Board issued a Procedural Order and questionnaire to Appellant Lizzi, requesting more information regarding his whistleblower activities. Appellant Lizzi replied to the questionnaire on June 3, 2005.

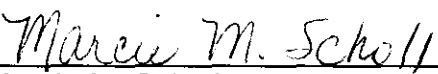
In his response to this Board's questionnaire, Appellant Lizzi stated December 28, 2004, was the date he received notice of the action that he was appealing and that the action was to be effective on January 10, 2005. Appellant Lizzi had also filed another appeal with this Board. That appeal was assigned case number 05-TFR-01-0002 and that notice of appeal alleged that Appellant Lizzi was notified of a transfer on December 28, 2004, to be effective January 10, 2005. On August 22, 2005, a Report and Recommendation was issued in that case recommending that the appeal be dismissed due to a finding that no transfer of Appellant Lizzi actually took place.

Therefore, there does not appear to be any action taken against Appellant Lizzi for which he could claim protection under the whistleblower statute. Also, the letters attached to the Questionnaire, which are the written reports Appellant Lizzi filed, do not meet the requirements of section 124.341 of the Ohio Revised Code as they do not allege any violations of state and/or federal statutes, rules or regulations.

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Before Appellant Lizzi can invoke the protection of the whistleblower statute, he has to suffer some adverse action as listed in section 124.341 of the Ohio Revised Code. There is no evidence that Appellant Lizzi has suffered any such adverse action and therefore he cannot claim any whistleblower protection.

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** due to the fact that there is no justiciable issue before this Board.



Marcie M. Scholl
Administrative Law Judge

:mms