

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

LANCE D. WOODWARD,

Appellant

v.

Case No. 05-WHB-02-0042

CLERMONT COUNTY VETERANS SERVICE COMMISSION,

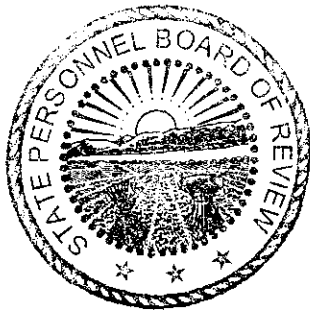
Appellee

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 subject matter jurisdiction, pursuant to R.C. 124.341.



Tracy – Aye
Lumpe – Aye
Booth – Aye



Roger W. Tracy, *Chairman*

CERTIFICATION

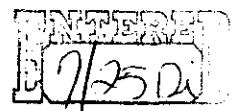
The State of Ohio, State Personnel Board of Review, ss:

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, July 25, 2005.



Dianna Mill
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**

Lance D. Woodward,

Case No. 05-WHB-02-0042

Appellant

v.

May 24, 2005

Clermont County Veterans Service Commission,

Elaine K. Stevenson
Hearing Officer

Appellee

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's filing of a "whistleblower" appeal with this Board.

R.C. 124.341 reads, in pertinent part:

124.341 REPORT OF VIOLATION OF STATUTES OR RULES
FILED BY EMPLOYEE; PROTECTION OF REPORTING
EMPLOYEE; FALSE INFORMATION REPORTED; APPEAL
TO STATE PERSONNEL BOARD OF REVIEW

(A) If a **state** employee in the classified or unclassified civil service becomes aware in the course of his employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation or misuse, the employee may file a written report identifying the violation or misuse with his supervisor or appointing authority.


* * * *

(D) If an appointing authority takes any disciplinary or retaliatory action against a classified or unclassified employee as a result of the employee's having filed a report under division (A) of this section, the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the state personnel board of review within thirty days after receiving actual notice of the appointing authority's action.

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Case law has established that only state employees can invoke the protection of the “whistleblower” statute cited above, not employees of a county. (See, *State ex rel. Cuyahoga Cty. V. State Personnel Board of Review* (1998), 82 Ohio St.3d 496.) In the instant case, Appellant was a county employee of Clermont County Veterans Service Commission.

Therefore, based upon the foregoing, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of subject matter jurisdiction, pursuant to R.C. 124.341 and the case law cited, *supra*.


Elaine K. Stevenson
Hearing Officer

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