

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

JACQUELINE MC GRADY,

Appellant,

v.

Case No. 06-WHB-02-0042

FRANKLIN COUNTY,
DEPARTMENT OF JOB AND FAMILY SERVICES,

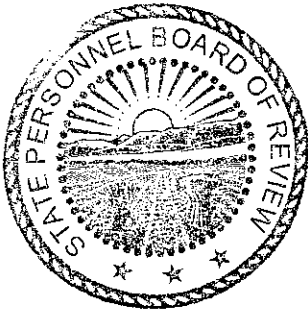
Appellee.

ORDER

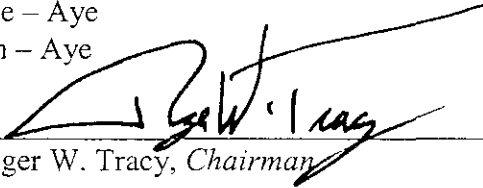
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 jurisdiction, pursuant to O.R.C. 124.341.



Tracy – Aye
Lumpe – Aye
Booth – Aye

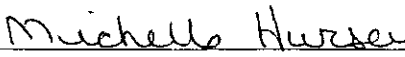


Roger W. Tracy, *Chairman*

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, August 14, 2006.



Michelle Hursey
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**

Jacqueline Mc Grady,

Case No. 06-WHB-02-0042

Appellant

v.

June 8, 2006

Franklin Co. Dept. of Job & Family Services,

Christopher R. Young

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration on June 8, 2006, upon the Appellant's February 22, 2006 filing of a "whistleblower" appeal as the Appellee allegedly retaliated against her for requesting certain leave be paid for which she was allegedly reduced, and upon the Appellant's May 23, 2006 response to the May 10, 2006 Procedural Order and Questionnaire, and upon the Appellee's motion to dismiss filed May 26, 2006. To date, the Appellant has not filed any memorandum in opposition to the Appellee's motion to dismiss, nor has she filed any other correspondence with this Board.

O.R.C. 124.341 governs "whistleblower" appeals filed with this Board. The pertinent part of this statute states:

(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 misuse of public resources, and the employee's supervisor or appointing authority has the 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.

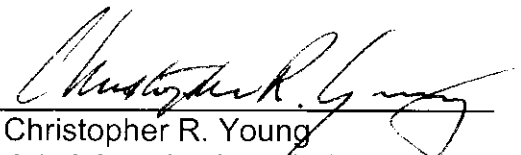
* * * * *

(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...

O.R.C. 124.341 indicates that the only employees who can invoke the protection of this statute are state employees, not county employees. This issue was discussed in the case of *State ex rel. Cuyahoga Cty. v. State Personnel Board of Review* (1998), 82 Ohio St.3d 496. In that case, the Ohio Supreme Court held that a county employee cannot file a whistleblower appeal with this board pursuant to O.R.C. 124.341

Therefore, based upon the foregoing, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of jurisdiction, pursuant to O.R.C. 124.341.


Christopher R. Young
Administrative Law Judge

CRY: