

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

Rodney Cordell,

*Appellant,*

v.

Case No. 07-IDS-03-0082

Department of Rehabilitation and Correction,  
Ohio State Penitentiary,

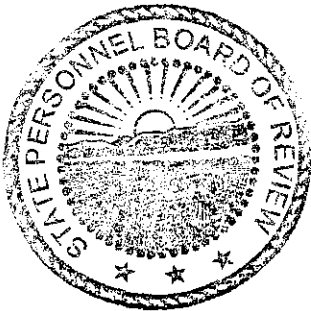
*Appellee.*

**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** since there is no justiciable issue before this Board.



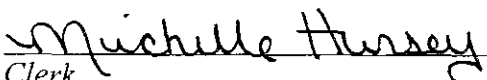
Lumpe – Aye  
Booth – Aye  
Tracy – Aye

  
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J. Richard Lumpe, *Chairman*

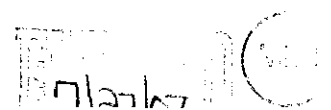
**CERTIFICATION**

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 27, 2007.

  
\_\_\_\_\_  
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**

Rodney Cordell

Case No. 07-IDS-03-0082

*Appellant*

v.

June 11, 2007

Department of Rehabilitation & Correction,  
Ohio State Penitentiary

*Appellee*

Marcie M. Scholl  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon Appellant's notice of appeal, filed on March 7, 2007. On April 25, 2007, this Board issued a Procedural Order and Questionnaire to Appellee and the response was filed on May 8, 2007. On May 21, 2007, Appellant Cordell filed his optional reply to the Questionnaire.

From the notice of appeal and the response and reply to the Questionnaire, the following facts have been determined:

1. Appellant Cordell was placed on involuntary disability separation sometime in the latter half of 2005.
2. Appellant Cordell first applied for reinstatement on August 28, 2006. He was apparently scheduled by Appellee to have an independent medical examination. Appellant Cordell alleges he did not receive notice of the appointment, did not attend, and Appellee, in a letter dated January 24, 2007, denied his reinstatement request. The letter states in it that Appellant Cordell had the right to appeal such denial of reinstatement to this Board.
3. Appellant Cordell did not file an appeal with this Board of the January 24, 2007 denial of reinstatement.
4. Appellant Cordell then applied for reinstatement again on February 6, 2007. Appellee then sent Appellant Cordell out for two independent medical

examinations and in a letter dated March 29, 2007, Warden Houk notified Appellant Cordell that he was being reinstated effective April 22, 2007.

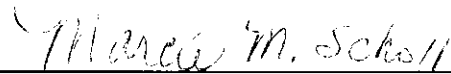
As was stated above, Appellant Cordell filed his notice of appeal with this Board on March 7, 2007. At that time he had not been notified of if he was or was not being reinstated from his February 6, 2007 request. Appellee received Appellant Cordell's request for reinstatement, determined the need for an independent medical exam, scheduled an examination and once the results were received, Appellee notified Appellant Cordell he was being reinstated. Appellee complied with the procedures found in Ohio Administrative Code Chapter 123:1-30.

This Board has no jurisdiction to review whether or not Appellee should have scheduled an independent medical examination or not. That is a determination which is in the sole discretion of the Appellee. Likewise, this Board has no jurisdiction to determine how long an agency should take in reinstating an employee after receiving the results of an independent medical evaluation. Appellant Cordell requested reinstatement on February 6, 2007 and was reinstated on April 22, 2007, approximately two and one-half months later. Considering that Appellee scheduled two independent medical examinations during that time, two and one-half months does not appear to be an unreasonable time period.

There is no justiciable issue before this Board. At the time Appellant Cordell filed his notice of appeal, there was no action taken by Appellee to either deny or grant Appellant Cordell's reinstatement request. As is stated above, this Board does not possess jurisdiction over any of the other issues raised by Appellant Cordell. He has been reinstated and the reinstatement occurred within a reasonable time period after he requested reinstatement. There is nothing before this Board on which to conduct an appeal.

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Therefore, it is my **RECOMMENDATION** that this appeal be **DISMISSED** as there is no justiciable issue before this Board.



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Marcie M. Scholl  
*Administrative Law Judge*

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