

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

George A. Burton,

Appellant,

v.

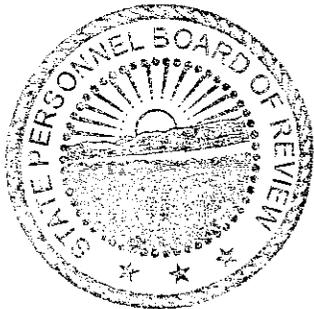
Case No. 08-ABL-06-0367

Department of Rehabilitation and Corrections,
Madison Correctional Institution,

Appellee.

ORDER

This matter came on for consideration on the motion of both parties that the Settlement Agreement and Release of all Claims attached hereto and incorporated herein by reference, be adopted. Being fully advised in the premises, the Board hereby orders that the attached settlement agreement be **ADOPTED**. Accordingly, the above-referenced appeal is hereby **DISMISSED**.



Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



J. Richard Lumpe, *Chairman*

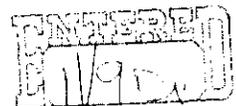
CERTIFICATION

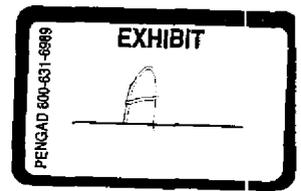
The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that 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, November 9, 2009.



Clerk





SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release ("Agreement") is made and entered into by and between George Burton ("Burton" as defined below), and the Ohio Department of Rehabilitation ("ODRC" as defined below).

WHEREAS, Burton filed an appeal with the State Personnel Board of Review of the abolishment of his position as Penal Industries Manager 1 at Madison Correctional Institution, Case No. 08-ABL-06-0367; and

WHEREAS, Burton and ODRC desire to fully and finally resolve any and all of their disputes, including, but not limited to, those claims embodied in the above-mentioned appeal and any and all disputes related to Burton's employment with ODRC.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the Parties agree as follows:

- Parties.** This Agreement is entered into on behalf of, and shall extend to, Burton, his heirs, assigns, executors, and administrators, herein collectively referred to as "Burton," and to the Ohio Department of Rehabilitation, its successors, assigns, officers, directors, employees and agents, both past and present, herein collectively referred to as "ODRC."
- Non-Admission.** The terms set out in this Agreement are a compromise and settlement of disputed claims, the validity, existence or occurrence of which are expressly denied by ODRC. Neither the terms set forth herein nor this Agreement shall be deemed or construed as an admission by ODRC of any wrongful acts whatsoever by or against Burton or any other person, nor does any arrangement(s) made with Burton constitute an acknowledgement of the validity of any claim, charge, liability or cause of action asserted, it being expressly understood that all such claims are in all respects denied by ODRC.
- Intent.** It is understood and agreed by the parties hereto that this Settlement Agreement and Release is being entered into solely for the purposes of avoiding further litigation, expense, and inconvenience. Except as specifically set forth herein, both Burton and ODRC wish to bring a complete, final and irreversible end to any and all claims and/or disputes which arise or which could have arisen from his State Personnel Board of Review Appeal, Case No. 08-ABL-06-0367, and to reach a full and final settlement of all matters occurring on or before the date of execution of this Agreement.

*Settlement Agreement and Release of All Claims
Between George Burton and Ohio Department of Rehabilitation &
Correction*

4. **Terms.** In consideration of the mutual promises and agreements set forth herein, the Parties' agree as follows:

A. **Transfer:** Burton's displacement from Madison Correctional Institution to London Correctional Institution, effective June 22, 2008, shall be rescinded. Burton shall be displaced to the Ohio Reformatory for Women to the position of Penal Industries Manager I, effective June 22, 2008.

B. **Release of All Claims and Dismissal of All Charges and Legal Actions and Covenant Not to Sue:** Burton, for himself, his heirs, assigns, executors, and administrators, does hereby fully, finally and forever release and waive any and all claims and rights which he may have against ODRC, and does hereby specifically quitclaim, release and forever hold harmless from and against any and all claims, liability, causes of action, compensation, benefits, damages, attorney fees, costs or expenses, of whatever nature or kind and whether known or unknown, which have arisen or which could have arisen from Burton's State Personnel Board of Review appeal, Case No. 08-ABL-06-0367, and any other claims, complaints and grievances which have or could have arisen at any time up to and including the date of execution of this Agreement. Such rights, claims, causes of action or liability shall include, but not be limited to, those arising or which might arise out of intentional infliction of emotional distress, harm or illness, intentional injury or intentional tort, or any other facts; the Fair Labor Standards Act and the Equal Pay Acts; Title VII of the Civil Rights Act of 1964, the Civil Rights Acts of 1964 as amended, the Civil Rights Act of 1991 as amended; the United States Constitution; the Civil Rights Acts of 1866 or 1871 (42 U.S.C. Sections 1981, 1983, 1985, et seq.); the Americans with Disabilities Act; the Age Discrimination in Employment Act; Chapter 4112 of the Ohio Revised Code and any other provision of the Ohio Revised Code, to include any workers' compensation claims not filed and existing as of the date of this Agreement; and any other Federal, State, City, County or other local law or ordinance concerning employment, or in any other manner regulating or otherwise concerning wages, hours or any other terms or conditions of employment, which, (a) have been filed, (b) are now pending, or (c) could have been filed, relating to any acts which have transpired at any time up to and including the date of execution of this Agreement.

Burton's withdrawals and/or dismissals shall include, but not be limited to, the appeal filed at the State Personnel Board of Review, Case No. 08-ABL-06-0367. and all complaints with the State or Federal Equal Employment Opportunity Commission, and any and all grievances, arbitrations, mediations and all other complaints of any sort which have arisen or could have arisen from Burton's employment with ODRC as of the date of this Agreement related to the

aforementioned charges, complaints and grievances. Burton represents and warrants that he has not assigned or otherwise transferred any right to any other person to assert any claims of any kind or character against ODRC, and agrees to indemnify and hold harmless ODRC from and against any such claims to be asserted by any other party.

5. **Litigation and Charges.** Burton agrees to withdraw the appeal filed at the State Personnel Board of Review, Case No. 08-ABL-06-0367 and all litigation and charges filed by him, or his agent, against ODRC, all Equal Employment Opportunity Commission charges and all grievances and arbitrations and any other matters now pending against ODRC with the Union, if applicable. Burton will specifically authorize his attorney(s) to file such withdrawals on his behalf.

6. **General Terms.** The Parties to this Agreement represent and affirm that the only consideration for their agreement and execution are the terms stated herein above; that no other promise or agreement of any kind has been made to or with any of them by any persons or entity to cause either to execute this Agreement, and that no other compensation, benefits, or prerequisites other than those specified in the foregoing Agreement shall be involved or claimed; that this Agreement shall not be interpreted to render Burton a prevailing party for any purpose, including, but not limited to, an award of attorney fees under any applicable statute or otherwise; and that each fully understands the meaning and intent of this Agreement; including, but not limited to, their final and binding effect.

The parties further acknowledge that they have had the opportunity to consult counsel, if so desired, concerning and before executing this Agreement, that they have carefully read and fully understand all of the provisions of the Agreement, and that the execution of the Agreement is the knowing and voluntary act of each of the parties.

This Agreement shall be construed according to its fair meaning, and not strictly for or against any of the Parties. Should any provision of the Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and the illegal or invalid part, term or provision shall be deemed not to be part of the Agreement.

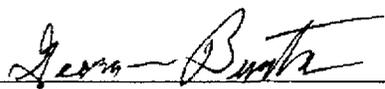
This Agreement sets forth the entire agreement between the parties hereto, and fully supersedes any and all prior discussions, agreements or understandings between the parties. The undersigned parties state that they have carefully read the foregoing and understand the contents thereof, and that each executes the same as their own free and voluntary act.

NOTICE: MR. BURTON, PEASE READ CAREFULLY BEFORE SIGNING.

Pursuant to the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*, you have certain specific rights. A waiver of your rights cannot apply to age discrimination claims arising in the future. I have read the foregoing agreement and release, consisting of four (4) pages, and fully understand it. I acknowledge that I was given at least twenty-one (21) days within which to consider this agreement, that I have the right to consult with legal counsel prior to signing this agreement, and that I have the right to revoke this agreement, in writing, for a period not to exceed seven (7) days after the date on which it is signed by me. I hereby acknowledge that if I fail to exercise this right to revoke, this agreement will immediately become a binding contract as to its terms. I now voluntarily sign this agreement and release on the date indicated.

The undersigned Parties state that they have carefully read the foregoing and understand the contents thereof, that they execute the same as their own free and voluntary act.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and date indicated below their respective signatures.



GEORGE BURTON



TERRY COLLINS, DIRECTOR
OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

12/23/08

DATE

12-24-08

DATE