STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Hal Harlow,

Case Nos. 09-FIN-02-0049
09-SUS-02-0159

Appellant,

v.

Department of Youth Services Central Office,

Appellee.

ORDER

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

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 appeals be **DISMISSED** for lack of jurisdiction, pursuant to O.R.C. § 4117.10(A).

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 constitute ~~(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, September 18, 2009.

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

Hal Harlow,	Case Nos. 09-FIN-02-0049 09-SUS-02-0159
Appellant	
v.	August 10, 2009
Department of Youth Services, Central Office,	
Appellee	Jeannette E. Gunn *Administrative Law Judge*

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

The above-referenced matters came on for consideration on August 10, 2009, upon Appellee's Response to this Board's Procedural Order, filed in SPBR Case No. 09-FIN-02-0049 on May 1, 2009, and upon Appellee's Motion to Dismiss, filed in SPBR Case No. 09-SUS-02-0159 on July 28, 2009. Appellee contends that Appellant was not suspended, and further asserts that this Board lacks jurisdiction to consider either of these disciplinary matters. Appellant did not file a memorandum *contra*.

Based upon the uncontroverted evidence contained in the record, I find that Appellant occupies a position classified as Juvenile Correction Officer. The Juvenile Correction Officer classification is included in a bargaining unit which is represented by OCSEA, Local 11 AFSCME, AFL-CIO. Appellee and OCSEA have signed a collective bargaining contract, which covers the Appellant's bargaining unit.

The above contract provides a grievance procedure resulting in final and binding arbitration. Evidence contained in the record indicates that Appellant was not suspended, but received a three-day fine; both a suspension and a fine are actions covered by the contract grievance procedures and Appellant filed a grievance of his three-day fine.

Article 25 of the collective bargaining agreement which covers Appellant's bargaining unit provides for binding arbitration of grievances. Ohio Revised Code Section 4117.10(A) states that where a bargaining agreement provides a grievance procedure which culminates in final and binding arbitration, the State Personnel

Board of Review has no jurisdiction. Accordingly, I find that this Board does not have jurisdiction to consider the above-referenced appeals.

Therefore, I respectfully **RECOMMEND** that the appeals be **DISMISSED** for lack of jurisdiction.

Jeannette E. Gunn
Administrative Law Judge