

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

KEVIN COLEMAN,

*Appellant,*

v.

Case No. 11-FRN-09-0322

LAKE COUNTY SHERIFF,

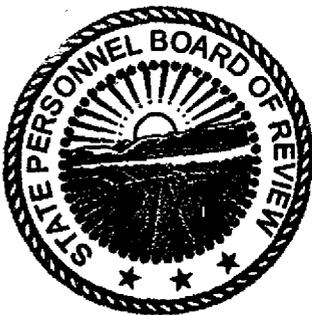
*Appellee*

**ORDER**

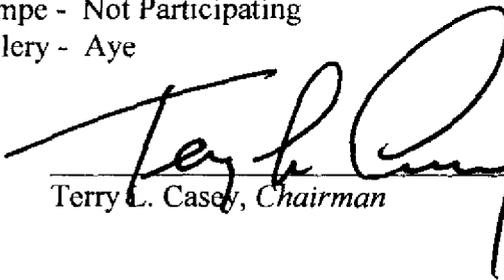
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including 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 Appellee's motion is granted and the instant appeal is **DISMISSED** for lack of jurisdiction over its subject matter, pursuant to R.C. 4117.10(A).



Casey - Aye  
Lumpe - Not Participating  
Tillery - Aye

  
Terry L. Casey, *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, December 01, 2011.



  
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**

KEVIN COLEMAN,

Case No. 11-FRN-09-0322

*Appellant*

v.

October 26, 2011

LAKE COUNTY SHERIFF,

JAMES R. SPRAGUE

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellee's filing of a motion to dismiss for lack of jurisdiction. Appellee contends this matter would have been properly resolved through the grievance procedure pursuant to a collective bargaining agreement and this Board lacks jurisdiction to consider the matter. Appellee also contends that Appellant did not timely file his appeal with this Board. Appellant did not file a memorandum *contra*.

I find that Appellant was classified as a Deputy Sheriff. The Deputy Sheriff classification is included in a bargaining unit which is represented by the Ohio Patrolmen's Benevolent Association. Appellee, Lake County Sheriff, and the Ohio Patrolmen's Benevolent Association have signed a collective bargaining contract, which covers Appellant's bargaining unit.

The above-referenced contract provides a grievance procedure resulting in final and binding arbitration. Appellant resigned from his position. Moreover, if he had been removed, that action would have been covered by the contract grievance procedures. R.C. 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 lacks jurisdiction over the subject matter at issue. Accordingly, this Board lacks jurisdiction to hear the instant appeal.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** the instant appeal for lack of jurisdiction over its subject matter, pursuant to R.C. 4117.10 (A).

*James R. Sprague*

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JAMES R. SPRAGUE  
*Administrative Law Judge*

JRS:

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