

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

WILLIAM MERRILL,

Appellant,

v.

Case No. 11-MIS-08-0294

DEPARTMENT OF REHABILITATION & CORRECTION,
MADISON CORRECTIONAL INSTITUTION,

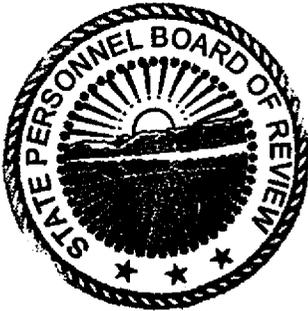
Appellee

ORDER

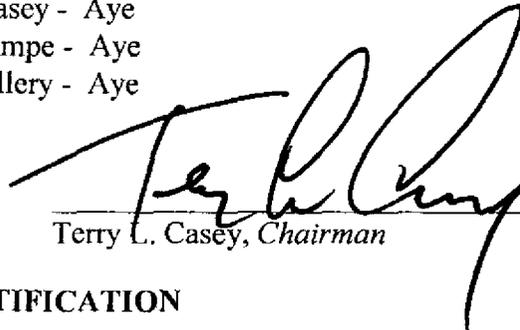
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 instant appeal be **DISMISSED** for lack of jurisdiction over its subject matter, pursuant to R.C. 124.34.



Casey - Aye
Lumpe - Aye
Tillery - Aye


Terry L. Casey, *Chairman*

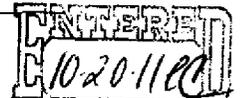
CERTIFICATION

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, October 20, 2011.

JOURNAL ENTRY
THIS STAMP IS IN RED INK


Erin E. Conn
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**

William Merrill,

Case No. 11-MIS-08-0294

Appellant

v.

September 29, 2011

Department of Rehabilitation & Correction,
Madison Correctional Institution,

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

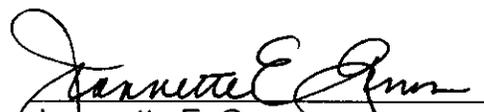
To the Honorable State Personnel Board of Review:

This matter came on for consideration on September 29, 2011. I find that Appellant has filed this appeal to protest his two-day working suspension.

Unlike a court, the State Personnel Board of Review has jurisdiction only when it has been explicitly conferred upon it by the Ohio General Assembly. Ohio Revised Code Section 124.03 grants this Board authority to review suspensions, removals, reductions, layoffs and abolishments.

Ohio Revised Code Section 124.34(B), however, provides that only suspensions of more than twenty-four work hours, in the case of an overtime-eligible employee, or more than forty work hours, in the case of an employee who is overtime exempt, are appealable to the State Personnel Board of Review. Accordingly, I find that Appellant's two-day working suspension is not appealable, see R.C. 124.34(B); *Gillard v. Norris* (1988), 857 F.2d 1095; *Rapier v. Darke County Board of Mental Retardation and Developmental Disabilities* (Mar. 10, 1993), Franklin Co., No. 92-CV-09-7589, unreported.

Therefore, I respectfully **RECOMMEND** that this appeal be **DISMISSED** for lack of subject matter jurisdiction.


Jeannette E. Gunn
Administrative Law Judge