

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

JANET S. WARD,

Appellant,

v.

Case No. 11-REM-08-0313

MONTGOMERY COUNTY JUVENILE JUSTICE
CENTER FOR ADOLESCENT SERVICE,

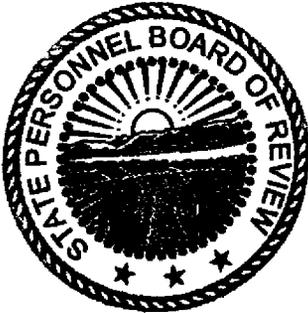
Appellee,

ORDER

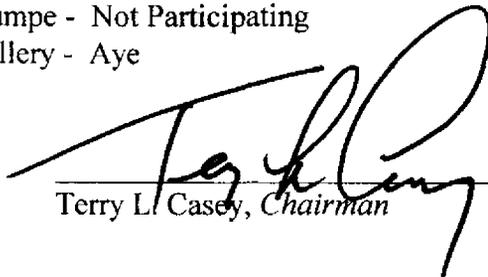
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 is **DISMISSED** for Appellant's failure to file a memorandum *contra* to Appellee's motion to dismiss, pursuant to O.A.C. 124-11-07(A)(2) and (C).



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**

JANET S. WARD,

Case No. 11-REM-08-0313

Appellant

v.

October 17, 2011

MONTGOMERY COUNTY JUVENILE JUSTICE,

JAMES R. SPRAGUE

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

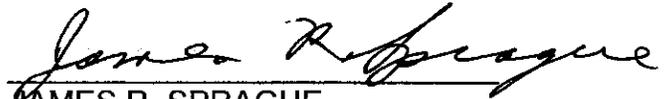
This cause comes on due to Appellee's September 26, 2011 filing of a motion to dismiss. Further, on September 26, 2011, Appellee timely filed its response to this Board's September 12, 2011 issued Procedural Order and accompanying Questionnaire.

In its motion, Appellee contends that this Board lacks jurisdiction over the subject matter of this appeal. This is because, Appellee asserts, Appellant served in a position with the Montgomery County Juvenile Court that fell within the unclassified service pursuant to R.C. 2151.13. Appellant was provided with the requisite time to file a memorandum *contra* but, to date, has not done so. Further, Appellant was provided with an opportunity to file an optional reply to Appellee's response to this Board's Questionnaire, but, to date, has not done so.

O.A.C. 124-11-07 governs the motions practice before this Board. O.A.C. 124-11-07 (A) (2) indicates, in pertinent part, that when a motion to dismiss is filed, then the opposing party must set forth specific facts showing there is a genuine issue in dispute. O.A.C. 124-11-07 (C) sets forth a 10-day time limit to respond to dispositive motions such as a motion to dismiss.

In the instant appeal, Appellant has failed to file a memorandum *contra* to Appellee's motion to dismiss. Further, it appears that Appellee's assertion regarding the unclassified status of Appellant's position has merit. Accordingly, this matter should be dismissed.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for Appellant's failure to file a memorandum *contra* to Appellee's motion to dismiss, pursuant to O.A.C. 124-11-07 (A) (2) and (C).



JAMES R. SPRAGUE

Administrative Law Judge

JRS: