

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2013-003

FRANK A. CROCKETT

APPELLANT

V. FINAL ORDER SUSTAINING
HEARING OFFICER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW AND RECOMMENDED ORDER
AS ALTERED

PUBLIC PROTECTION CABINET
ROBERT VANCE, APPOINTING AUTHORITY

APPELLEE

** ** *

The Board at its regular March 2014 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated February 14, 2014, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be altered as follows:

A. **Delete** the Findings of Fact, Conclusions of Law and Recommended Order, page 1, first paragraph, and substitute the following:

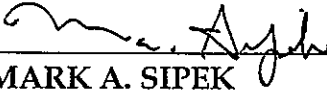
This matter came on for an evidentiary hearing on December 12, 2013, at 9:30 a.m., ET, at 28 Fountain Place, Frankfort, Kentucky, before the Hon. Kim Hunt Price, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

IT IS FURTHER ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer, as altered, be and they hereby are approved, adopted and incorporated herein by reference as a part of this Order and that the Appellant's appeal be **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

SO ORDERED this 19th day of March, 2014.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
SECRETARY

A copy hereof this day mailed to:

Hon. Cannon Armstrong
Frank Crockett
Lynn Keeling Gillis
Sherry Butler

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2013-003**

FRANK A. CROCKETT

APPELLANT

**V. FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

**PUBLIC PROTECTION CABINET,
ROBERT VANCE, APPOINTING AUTHORITY**

APPELLEE

** ** *

This matter came on for a pre-hearing conference on December 12, 2013, at 9:30 a.m., ET, at 28 Fountain Place, Frankfort, Kentucky, before the Hon. Kim Hunt Price, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Frank A. Crockett, was present at the evidentiary hearing and was not represented by legal counsel. The Appellee, Public Protection Cabinet, was present and represented by the Hon. Cannon Armstrong.

BACKGROUND

1. This matter was originally scheduled for a pre-hearing conference on September 5, 2013. The Appellant was not present. The Appellee appeared for the conference. An Order recommending dismissal was entered on September 6, 2013. Thereafter, Appellant filed a letter on September 12, 2013, requesting the matter be rescheduled due to his inadvertent error in missing the pre-hearing date. The Appellee filed a response to the Appellant's statement on September 13, 2013. Thereafter, an Order was entered on October 11, 2013, remanding the appeal and it was ultimately scheduled for hearing on December 12, 2013.

2. By letter dated December 5, 2012, the Appellant was suspended for five working days for Unsatisfactory Work Performance in his duties as Board Administrator with the Office of Occupations and Professions. In addition, the suspension was based upon insubordination of time and attendance for taking leave

without approval. A copy of the suspension letter is attached hereto as **Recommended Order Exhibit 1**.

3. Appellant filed a timely appeal with the Personnel Board on January 9, 2013, stating, "It is my contention that the suspension is excessive in light of both my otherwise unblemished work record and the relatively (sic.) nature of the alleged infractions - miscommunications regarding pre-approval for a request to use leave time and failure to locate document needed for an open records request response. These incidents could have been more appropriately addressed through coaching memo or written reprimand. Indeed, being forced to take the leave day without pay would appear to have been punishment for failing to obtain prior written consent to use of leave time." Appellant further attached to the appeal statement a letter dated January 7, 2013, which is attached hereto as **Recommended Order Exhibit 2**.

4. The parties entered into agreed stipulations which were filed of record on December 12, 2013. The following are stipulated facts:

A. As a Board Administrator with the Office of Occupations and Professions you are required to respond to open records requests.

B. A licensee of the Board of Licensed Professional Counselors can request copies of his/her applications and license renewal from the Office of Occupations and Professions under the open records law.

C. On September 4, 2012, Appellant received and reviewed an email forwarded by Susan Ellis, Administrative Section Supervisor at the time, from Sarah Bowling, a licensee of the Board of Licensed Professional Counselors.

D. The email Susan Ellis forwarded to Appellant on September 4, 2012, from Sarah Bowling was an open records request under KRS 61.872.

E. Prior to September 4, 2012, Appellant was aware that pursuant to KRS 61.872(5), open records requests are to be responded to in writing within three (3) days from the receipt of the request, or a detailed explanation for the cause of delay should be provided to the requestor.

F. The documents requested by Sarah Bowling on September 4, 2012, were provided by Courtney Bourne on November 29, 2012, by email.

5. **Deborah Day**, who is employed at the Public Protection Cabinet, Occupations and Professions Branch, has been employed with state government for 13 years, beginning as a Program Coordinator, advancing to Policy Analyst II and III positions and then to her current position as Administrative Section Supervisor. She

has 16 staff under her supervision. She testified that during the period of time from September 4, 2012, through December 2012, Appellant was a Board Administrator (BA). This Board is the depository for licensed records for many professions which are required to obtain licensure through the state. Part of Appellant's position as Administrative Specialist III was to receive and review applications for licensures and renewals for the Board of Professional Counselors, Board of Specialists in Hearing Instruments and Board of Home Inspectors.

6. She testified that Appellant had received training in responding to open records requests, and that was part of his duties. This training was reflected in Appellee's Exhibits 1, 2, 3 and 4. Pursuant to KRS 61.872(5), there are three business days in which to respond to open records requests.

7. Day testified that pursuant to Appellee's Exhibit 5, an e-mail from Sarah Bowling dated November 28, 2012, this matter came to her attention. The e-mail records reflect that Sarah Bowling, by e-mail from Sarah Bowling to Susan Ellis dated September 4, 2012, at 12:27 p.m., requested she receive her renewal application for licensure as a professional counselor associate consisting of two pages. Ellis forwarded the e-mail to Appellant on the same date at 12:45 p.m. Appellant responded to the e-mail at 1:46 p.m., referring Bowling to the website to print a blank application. On the same date, Bowling replied she would like a copy of the application she submitted the previous year or the number of hours which were on record for her. She was trying to determine if she had enough hours for her LPCC, a higher position.

8. On September 13, 2012, at 12:40 p.m., after having received no response, Bowling forwarded another e-mail to Appellant stating she had not received a response to her open records request and again requested the renewal application from last year or the number of hours she had accrued during the year. Appellant responded on September 13, 2012, at 2:38 p.m., stating he apologized for the delay, but could not retrieve her renewal, because the office was in the midst of a large data conversion. Bowling responded back at 2:43 p.m., asking how she could obtain her records, as she had attempted to start the process so she could find out if she needed to apply for her license renewal as a LPCA or a LPCC. Appellant responded by e-mail that same date at 2:56 p.m. that she or her supervisor should have a log of her hours. Bowling responded at 2:59 p.m., that her former supervisor was terminated from her job and took the records with her. Bowling had no way to contact her and no copy of the records.

9. No response was received, and by e-mail dated November 28, 2012, from Bowling to Courtney Bourne, Bowling sent a series of e-mails asking for the records again, since she had been trying to get them since September. Bourne then e-mailed the requested information back to Bowling on November 29, 2012, at 5:38 p.m.

10. Day was unaware what Appellant could have meant by a data conversion, other than possibly a scanning process. There was a scanning process where employees have a scanner on their desk and items are supposed to be scanned as they come in. She acknowledged employees do get behind on scanning at times. The hard copy of the file would have been in the same building on the first floor. Appellant's office was located on the second floor, and nothing would have prevented him from getting it the day of the request.

11. Bowling's LPCA expired on October 31, 2012. Therefore, she was not able to work until this matter was resolved on November 29. Day also submitted Appellee's Exhibit 6, which were e-mails which Bowling had forwarded to Bourne, including one where Bowling's employer, had informed Bourne that Bowling could not practice after her license expired without obtaining the information. Bourne received the information by going to the first floor area for the licensed professional counselors and found the document requested in a box marked 2011 renewals. This occurred in one day. Appellant had been one of the individuals to take the boxes downstairs before he scanned them. It is normal procedure, if one cannot find a digital copy, to check in the storage room. Appellant could have gotten the records on the same day the request came in in September.

12. Appellant transferred to Corrections prior to the hearing. Day is in Appellant's prior position at this time, and took the exact same number of Boards which Appellant had. She has had no problem with keeping up with her workload or complying with open records requests.

13. Day also testified that if Appellant had felt overwhelmed, he could have asked for comp time or other time to assist him; he never asked her for help with Bowling's open records request. Appellant had asked Day for help with another open records request a week or so earlier. Also, Appellant's workload was the second lowest in the number of licensures assigned to others in his position.

14. When Appellant questioned Day about an open records request she had helped him with previously, she stated she had worked with it off and on about three days to finish it, and gave it back to him to complete. Bourne had also helped with this. They would ask him for specific documents and Appellant would bring others which were unrelated. Finally, she gave him the requested documents back, and he just had to assemble them and redact them before sending them out. She felt that Appellant was upset she had given them back to him for that portion of the work.

15. Day also introduced Appellee's Exhibit 9, a November 21, 2012 e-mail from her to Appellant authorizing him to be off work from November 27, 2012, to November 29, 2012, with the exception of a 10:00 a.m. meeting on November 29, 2012. Appellant then sent back an e-mail at 6:56 p.m. on November 29, 2012, where he stated

he would not be in to work on Friday, November 30, 2012. Appellant requested November 30, 2012, off during the 10:00 a.m. meeting on November 29, 2012, with Deb Day. She told Appellant he would have to clear the request with Executive Director Courtney Bourne, and that was never done, nor was the request made. The leave time for November 30, 2012, was not approved.

16. Day also stated that although Appellant had carried the work of an extra Board when a person was off work in February, another person had been hired in May, and therefore he was not carrying an extra load at the time of Bowling's request.

17. **Lynn Keeling Gillis**, Division Director of Human Resources for GAPS, does Human Resources for the Public Protection Cabinet. She has worked for state government for 12 years. She was in an entry-level position initially, and then moved into a personnel management specialist position. She is the designated appointing authority for the Appellee.

18. Per Gillis, the main reason for the suspension letter was the unsatisfactory work performance, and the Appellant's non-response to the open records request. Also there was insubordination for the time and attendance.

19. Gillis has had open records training, supervises responses to such requests to the Human Resources, and is aware of the three-day required response time. She testified if an agency fails to respond to an open records request adequately, the requesting party has the right to sue the agency and can receive \$25 per day for the delay, plus attorney's costs and other fees.

20. Gillis was aware of another person in the same office as Appellant about a month before who was suspended for five days for failure to comply with open records requests. The response to the delay in that case was a month. Therefore, Gillis felt Appellant's suspension was less severe.

21. Gillis stated Appellant's issue was particularly troublesome, because an individual (Ms. Bowling) had to have her professional licensure, and wasn't able to work because she didn't receive the records she requested. In essence, no additional suspension time was given for the insubordination because five days' suspension would have been consistent with other employees' suspensions.

22. Appellant, **Frank A. Crockett**, attempted to introduce several records, but had not filed a witness and exhibit list. Therefore the records were not permitted to be introduced. He was allowed to testify to the substance of the records.

23. For his case, Appellant testified he was inundated with work, having 2200 to 2500 licensees under his authority, plus people calling for information on how to

obtain licenses daily. He estimated 15 to 20 calls per day, and that many or more e-mails. Further, he testified he had home inspectors, and those individuals don't typically know a lot about legal matters. He received 15 to 30 calls per day from them. He had the Prosthetics Board, which was going through a big regulatory change, and many licensees had called about that. He also testified he helped with other boards when other employees had been off work. He stated he did not have time to give each board enough attention, and felt he was always "putting out fires."

24. In February 2011, Appellant requested to come in on Saturdays and catch up. He was granted one Saturday, but later was only given an additional hour per day. In addition, on June 14, 2012, Appellant stated he had e-mailed Bourne requesting Saturdays rather than the one hour per day, because the calls kept coming in during the work day. He had also e-mailed Bourne on May 17, 2012, stating he felt like he was on a treadmill getting ready to fly off. He had requested to work 7:00 a.m. to 5:00 p.m. the next week because they would not allow him to work extra on Saturdays. He also e-mailed Bourne on February 29, 2012, that he was behind on renewal letters.

25. Appellant acknowledged he dropped the ball on Bowling's open records request.

26. Appellant stated he had lost confidence in Day's willingness to assist him, due to the open records request where she had given all the papers back to him and told him to finish it. He had been inundated and could not keep up, and rather than her taking care of the matter, it was dropped back into his lap.

27. Appellant acknowledged there are storage boxes downstairs, and they are retained for five years in three different rooms. He stated it is very time consuming to find one renewal letter, meaning two to three hours. He did try to find the application Bowling had requested, but could not. He did not doubt that Bourne's resources of other individuals working under her allowed her to get the document retrieved.

28. Appellant also felt the database which was the source for renewal was very dated and difficult to navigate and find things on.

29. Appellant stated he had worked for 25 years, initially as a sales person and manufacture representative. He had never received any verbal or written reprimands. Appellant had worked with the state with the Public Protection Cabinet since 2010, in the same position and had never received any verbal or written reprimands. He felt this action was not progressive discipline, and a verbal reprimand or something being placed in his file would have been sufficient. He left the position because he was embarrassed by the suspension. He acknowledged he had already begun the interview process for his current position in Corrections prior to Bowling's

request being filled in November 2012. He began his position at Corrections on December 16, 2012.

FINDINGS OF FACT

1. Appellant's job duties included responding to open records requests within the three days required by statute. He had received training in responding to open records requests. Appellant did not request any assistance from anyone on Bowling's open records request.

2. Appellant received an open records request from Sarah Bowling on September 4, 2012. He did not adequately respond to the request, and as a result Bowling was unable to work from November 1, 2012, when her license expired, until the time the information was provided to her on November 29, 2012.

3. Appellant did not request leave as directed by his supervisor for November 30, 2012. He further failed to report to work on November 30, 2012.

4. 101 KAR 1:345, Section 1 states:

Section 1. General Provision.

Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

5. Appellant had the second lowest workload within his area of work during the period of time the open records request was not answered.

6. Another employee within the same department who failed to answer an open records request for 30 days was suspended for five days.

CONCLUSIONS OF LAW

1. Appellant's failure to timely answer an open records request for two months and his taking leave without approval constitute Unsatisfactory Performance of Duties and Insubordination concerning time and attendance.

2. A five-day suspension is consistent with that discipline provided to other employees for similar infractions.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **FRANK A. CROCKETT V. PUBLIC PROTECTION CABINET, (APPEAL NO. 2013-003)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

Any document filed with the Personnel Board shall be served on the opposing party.

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

ISSUED at the direction of Hearing Officer Kim Hunt Price this 14th day of February, 2014.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:
Hon. Cannon Armstrong
Mr. Frank A. Crockett



PUBLIC PROTECTION CABINET

Steven L. Beshear
Governor

Capital Plaza Tower
500 Mero Street, 5th Floor
Frankfort, KY 40601
Phone: (502) 564-7760
Fax: (502) 564-3969
www.ppc.ky.gov

Robert D. Vance
Secretary

HAND DELIVERED, FIRST CLASS AND CERTIFIED MAIL

December 5, 2012

Mr. Frank A. Crockett

Dear Mr. Crockett:

Pursuant to KRS 18A.095, I have been designated by Secretary Robert D. Vance to notify you that you are suspended from duty and pay for a period of five (5) working days. Your suspension will be served from beginning of business Monday, December 10, 2012, through close of business Friday, December 14, 2012.

Pursuant to 101 KAR 1:345, Sections 1 and 4, you are being suspended from your position as Administrative Specialist III in the Office of Occupations and Professions, Administrative Section, for the following reasons:

Unsatisfactory Work Performance

Your duties require you to provide administrative support to the Kentucky Board of Licensed Professional Counselors and other regulatory boards, and to communicate with the public on issues relating to those boards. You are expected to provide prompt responses to e-mails and phone calls regarding those boards. On September 4, 2012 you received an email forwarded to you by Susan Ellis, Administrative Section Supervisor, from Sarah Bowling, Licensed Professional Counselor Associate. The email was an open records request for Ms. Bowling's 2011 Licensure Renewal Application. You did not respond to Ms. Bowling's request appropriately; your response to her simply embedded a link to access the blank application template. Ms. Bowling made requests for her records to you on September 4, 2012 and again on September 13, 2012, but you did not provide the requested records.

On November 28, 2012 Andrea Gilkey, supervisor of records for Ms. Bowling's employer, contacted Courtney Bourne, Executive Director, Office of Occupations and Professions for

assistance. Ms. Gilkey stated that you did not return emails or phone calls and she forwarded several emails in which you had not responded. Likewise, Ms. Bowling sent Ms. Bourne the open records request correspondence. Ms. Bourne searched the hard copy file storage and found the original renewal in a box labeled, "LPC 2011 Renewals." The records requested by Ms. Bowling had thus been readily accessible for you to provide to Ms. Bowling.

Pursuant to KRS 61.872, Section 5, open records requests are to be responded to in writing within three (3) days from receipt of the request, or a detailed explanation for the cause of delay should be provided. The Office of Occupations and Professions operating procedures also require open records requests to be responded to within three (3) days from the time that the Office receives the request, and direct you to correspond with the requestor should it take more than three (3) days to complete the request. In addition, current telephone and email procedures in place at the Office of Occupations and Professions state that "all methods for which voice mail and email inbox messages are received are to be returned within one (1) business day unless there are extenuating circumstances." You failed to comply with KRS 61.872 and current Office of Occupations and Professions procedures by not responding to Ms. Bowling's records request pursuant to law and Office procedures. You also failed to comply with Office of Occupations and Professions procedures which require that you log the Open Records Request in the tracking sheet.

Insubordination / Time and Attendance:

Per Occupations and Professions Time and Attendance Policy, employees are to complete and receive approval for leave via the *Application for Leave Form*, in advance. You requested and were approved for leave on November 27, 28 and 29, 2012 with the condition that you would attend a brief, but required Section meeting on November 29, 2012. Upon arrival at the meeting, you verbally told your first line supervisor, Debra Day, that you would need to be off work on November 30, 2012. Ms. Day instructed you to clear that request with Executive Director Courtney Bourne as she would need to approve your leave because there were pending issues Ms. Bourne needed to discuss with you. Rather than follow the directive by Ms. Day, you did not request leave via the *Application for Leave Form*, you did not consult with Ms. Bourne and you did not come to work on November 30, 2012. You sent an email to Ms. Day at 6:56 p.m. the evening of November 29, 2012 informing her that you would not be in on November 30, 2012. Your leave time for November 30, 2012 was subsequently unapproved. Your failure to comply with leave request procedure and the directive that you meet with Ms. Bourne to get approval for your absence on November 30, 2012 constitutes a lack of good behavior.

For the foregoing reasons you are being suspended without pay for a period of five (5) working days. Future instances of unsatisfactory work performance or lack of good conduct may result in disciplinary action up to and including dismissal.

You are further directed to set your e-mail and voicemail to provide an out of office response for the period of your suspension. You are to set those out-of-office responses before you leave your workstation at the close of business today.

For your information, the Kentucky Employee Assistance Program (KEAP) is a voluntary and confidential assessment and referral service for state employees. This service may help you with any personal problems that may be affecting our job performance. KEAP can be reached at (800) 45- 5327 or (502) 564-5788.

In accordance with KRS 18A.095 you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the date notification was received. Such appeal must be filed in writing using the attached appeal form and in the manner prescribed on the form.

Sincerely,

A handwritten signature in cursive script, reading "Holly McCoy-Johnson". The signature is written in black ink and is positioned above the printed name.

Holly McCoy-Johnson
Appointing Authority
Public Protection Cabinet

Attachment: Appeal Form

cc: Personnel File
Personnel Cabinet

January 7, 2013

Dear Board Members:

I hereby appeal the five-day suspension imposed on me based on two prior incidents more fully described below.

As part of my job duties as a board administrator in the Office of Occupations and Professions, I was asked to fulfill an open records request in September 2012. Due to an extensive workload, I was not able to respond to the request in a timely manner. Once I had time to address the request, I was unable to locate some of the documents requested. The Office of Occupations and Professions has been in the process of transitioning to electronic record keeping during the two years I have been employed there. Consequently, some records are currently in electronic form and some are stored in hard copy format. I asked another board administrator in the office for guidance as to how she handles cases when she is unable to locate requested documents. She advised that in such cases, she would explain the records conversion situation to the requestor and inform them that she was unable to locate the requested material at that time. I followed this course of action in responding to the request.

The Executive Director became aware of this issue in November and was able to locate the information at a later date. When I was informed of this latest development on December 3rd, I acknowledged my prior inability to locate the needed records and reminded her and my first line supervisor that I had indicated being overwhelmed with a large work load. On several prior occasions, I informed them that I felt like I was not able to give proper attention to these requests. Both verbally and in writing through email, I have requested assistance with the work load. While I occasionally requested and was approved to work compensatory time to try to stay 'afloat', as a father of four, my availability beyond the regular 40-hour work week is limited. I also expressed my opinion on the need to hire additional personnel to help the board administrators and requested a records clerk be hired for instances such as these. While these requests were sometimes met with acknowledgement that the work load was significant, on other occasions, I was told that some board administrators before me had been able to manage. I continued to explain that the combination of boards for which I am responsible is unique both in size as well as the attention to detail each requires. However, no relief was ever provided.

Due to my family moving residences, I requested personal leave for November 27-29. Although my immediate supervisor approved this request, I was nonetheless required to come into the office on the 29th to attend a staff meeting. After the meeting, I made a verbal request to my supervisor to be off the following day, (11/30), since the meeting had disrupted the move. My supervisor advised this request would need to be approved by the next line supervisor, which was not the typical procedure. As I was in a hurry to get back to my house since professional movers were already there, I left immediately after this conversation, assuming my supervisor would relate my need for subsequent leave to the Executive Director. That evening when I was able to sign on to my personal computer at my temporary location, there was no email communication from anyone at the office regarding my leave request nor had I received any telephone communication, though both my supervisor and the Executive Director have my

personal cell phone number. Therefore, I sent an email reiterating my request for leave for the next day as a result of the move. I then spent Friday and the weekend moving my family.

Upon my return to the office the following Monday morning (12/3), the incident regarding the open records request was brought to my attention. At this time, I was also advised that I would be required to take leave without pay for the previous Friday (11/30), as it had not been approved prior to my absence. I apologized for the lack of communication regarding the leave request and explained that I had been attempting to move and reschedule my move around the referenced staff meeting.

On Thursday, 12/6, I submitted my notice of intent to transfer to a lateral position to work for the Department of Corrections. Coincidentally, on Friday, 12/7, I was given a notice of a 5-day suspension for the two incidents set forth above, (dated Wednesday, 12/5).

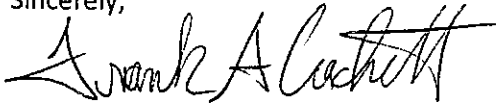
Prior to the discussion of these incidents on Monday, 12/3, I had received no progressive discipline. Other than the occasional constructive criticism or suggestion, I had only received accolades from both my supervisor and Executive Director. Both had previously sent emails indicating they were pleased with my performance. They had received emails from citizens and board members acknowledging my helpfulness. In one particular instance, the Executive Director sent an email thanking me for a job well done and indicating that she felt I had made a great impression on our Cabinet Secretary during a meeting.

It is my contention that this suspension is excessive in light of both my otherwise unblemished work record and the relatively minor nature of these infractions. These incidents could have been more appropriately addressed through a coaching memo or written reprimand. Indeed, being forced to take Friday, 11/30, without pay would appear to have been sufficient punishment for failing to obtain prior written consent for use of leave time.

Please note my new work station address:

Frank Anthony (Tony) Crockett
Justice and Public Safety Cabinet
Department of Corrections
CO - Fiscal Management
275 E Main St
Frankfort, Kentucky 40601

Sincerely,

A handwritten signature in black ink, appearing to read "Frank A. Crockett", with a stylized, cursive script.

Frank A. Crockett
Enclosures