

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2021-137

OLIJAWAN HARRIS

APPELLANT

VS. **FINAL ORDER
SUSTAINING HEARING OFFICER'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF JUVENILE JUSTICE**

APPELLEE

*** **

The Board, at its regular September 2022 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated August 17, 2022, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer are approved, adopted, and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **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 15th day of September, 2022.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Olijawan Harris
Hon. Jamhal Woolridge
Hon. Rosemary Holbrook (Personnel Cabinet)
Cynthia Watson

COMMONWEALTH OF KENTUCKY
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FINDINGS OF FACT, CONCLUSIONS OF LAW,
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APPELLEE

** ** * ** * ** * ** * **

This matter came on for a pre-hearing conference on May 19, 2022, at 10:00 a.m. ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before Mark A. Sipek, Hearing Officer. The proceedings were recorded by audio equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Olijawan Harris, was present and was not represented by legal counsel. The Appellee, Justice and Public Safety Cabinet, Department of Juvenile Justice, was present and was represented by the Hon. Jamhal Woolridge.

The purposes of the pre-hearing conference were to determine the specific penalization alleged by the Appellant, to determine the specific section of KRS Chapter 18A that authorizes this appeal, to determine the relief sought by the Appellant, to define the issues, to address any other matters relating to this appeal, and to discuss the option of mediation.

FINDINGS OF FACT

1. The Appellant filed his appeal with the Personnel Board on November 15, 2021, from his dismissal as a Youth Worker I while serving his initial probationary period. He stated he had been employed for approximately eleven (11) months, and that the probationary period is one (1) year. The Appellant did not know the reason he was dismissed. He stated that he had recently been offered a promotion to Youth Worker III. He stated he was not claiming that his dismissal was the result of any form of discrimination.
2. The Appellee filed a Motion to Dismiss and Motion for Summary Judgment alleging that the Personnel Board did not have jurisdiction over this appeal.
3. The Appellant was employed as a Youth Worker I for the Appellee at the Campbell Regional Juvenile Detention Center. He was dismissed on October 28, 2021.

4. It is not in dispute that Youth Worker Is have a probationary period of twelve (12) months.
5. The Appellant was serving his initial probationary period of twelve (12) months.
6. The Appellant did not allege discrimination on his appeal form. At the pre-hearing conference, he specifically stated he was not alleging any form of discrimination. He did not know the reason he was dismissed and wanted to learn why this happened.
7. Although given the opportunity to respond to the Appellee's Motion to Dismiss and Motion for Summary Judgment, the Appellant did not file a response.
8. There are no material issues of fact and this appeal can be decided as a matter of law based on a review of the appeal form, the statements of the parties at the pre-hearing conference, and the Appellee's Motion.

CONCLUSIONS OF LAW

1. As an employee serving his initial probationary period, the Appellant could be dismissed at any time, pursuant to KRS 18A.111. His only right of appeal would be an allegation of illegal discrimination, pursuant to KRS 18A.095(12) and (14)(a).
2. Because the Appellant filed his appeal and did not allege discrimination or any other illegal reason for his dismissal, the Personnel Board lacks jurisdiction to hear this appeal.
3. There are no genuine issues of material fact and this appeal can be dismissed as a matter of law, based on the appeal form, the statements of the parties at the pre-hearing conference, and the Appellee's Motion to Dismiss and Motion for Summary Judgment. KRS 13B.090(2) and KRS 18A.095(18)(a).

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **OLIJAWAN HARRIS V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE, (APPEAL NO. 2021-137)** 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 fifteen (15) 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 Mark A. Sipek** this 17 day of August 2022.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK,
EXECUTIVE DIRECTOR

A copy hereof this day e-mailed and mailed to:

Hon. Jamhal Woodridge
Olijawan Harris
Hon. Rosemary Holbrook (Personnel Cabinet)