

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD

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BELINDA LITTRELL (Appeal No. 2016-134)
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HOUSTON WHITE (Appeal No. 2016-200)

WINSTON WILSON, JR. (Appeal No. 2016-201)
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JAMES PARIS (Appeal No. 2016-212)
LAUREN RUSSELL (Appeal No. 2016-213)
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COREY WRIGHT (Appeal No. 2016-218)
MICHELLE BAKER (Appeal No. 2016-219)
MARTHA DAVENPORT (Appeal No. 2016-220)
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GINGER HUNT (Appeal No. 2016-231)
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AMANDA SILER (Appeal No. 2016-252)

APPELLANTS

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

VS.

JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF STATE POLICE
And
PERSONNEL CABINET

APPELLEE

INTERVENOR

*** **

The Board, at its regular January 2019 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated December 6, 2018, 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** Conclusion of Law C (2) and (3) and substitute the following:

2. Appellees contend that Appellants' Equal Protection claim does not apply in the public employment context. They further argue that a U.S. Supreme Court case, *Enquist v. Oregon Department of Agr.*, 553 U.S. 591 (2008) dictates a finding that Appellants' claim is legally deficient and must be dismissed as a matter of law. In the *Enquist* case, the central issue before the United Supreme Court was "whether a public employee can state a claim under the Equal Protection Clause by alleging that she was arbitrarily treated differently from similarly situated employees, with no assertion that the different treatment was based on the employee's membership in any particular class." *Id.* at 594. Appellees interpret the *Enquist* decision as disallowing "class of one" allegations against public employers.

3. The Hearing Officer finds that the case of *Enquist v. Oregon Dept. of Agr.*, does, in fact, mandate the dismissal of Appellants' Equal Protection claim.

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 the Appellants' appeals are **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 14th day of January, 2019.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:
Hon. David Broderick
Hon. Brandon Murley
Hon. Heather Wagers
Hon. Rosemary Holbrook
Lt. Col. Chad White
Ms. Amanda Cloyd