

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2024-030**

MARTINA LYTLE

APPELLANT

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

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF PUBLIC ADVOCACY
AND
PERSONNEL CABINET**

APPELLEES

*** **

The Board, at its regular March 2025 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated February 7, 2025, 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 24th day of March, 2025.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR., SECRETARY

Copies hereof this day emailed and mailed to:
Martin Lytle
Hon. Melanie Lowe
Hon. Cheyla Bush
Hon. Catherine Stevens
Hon. Rosemary Holbrook (Personnel Cabinet)

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2024-030**

MARTINA LYTLE

APPELLANT

FINDINGS OF FACT, CONCLUSIONS OF LAW

v.

AND RECOMMENDED ORDER

**JUSTICE AND PUBLIC SAFETY CABINET
DEPARTMENT OF PUBLIC ADVOCACY**

AND

PERSONNEL CABINET

APPELLEES

* * * * *

This matter came on for a pre-hearing conference on November 22, 2024, at 1:00 p.m., ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Gordon A. Rowe, Jr., Executive Director/Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The appellant herein, Martina Lytle (the “Appellant”), was present by telephone and was not represented by legal counsel. The appellee herein, Justice and Public Safety Cabinet, Department of Public Advocacy (“DPA”), was present by telephone and was represented by the Hon. Cheyla Bush. The Appellee, Personnel Cabinet, was present by telephone and represented by the Hon. Catherine Stevens (DPA and the Personnel Cabinet shall hereinafter be referred to collectively as the “Appellees”). The purpose of the pre-hearing conference was to discuss the status of the appeal and the jurisdiction of the Personnel Board.

At issue in this appeal is the Appellant’s request for reclassification from Staff Attorney I to Staff Attorney II, which was denied by the Personnel Cabinet. The Personnel Cabinet argued the appeal should be dismissed due to lack of jurisdiction. Specifically, the Personnel Cabinet argued that the Personnel Board has no jurisdiction to hear disputes regarding reclassification of state employees or regarding minimum qualifications, which are at issue in this appeal. In support of its argument, the Personnel Cabinet cited to the most recent version of KRS 18A.095 and to the Personnel Board case of *Tiler Deaton v. Public Protection Cabinet and Personnel Cabinet*, PB Appeal No. 2023-135 (Decided March 6, 2024). The Hearing Officer has reviewed

the applicable version of KRS 18A.095 and the *Deaton* opinion and, for the reasons cited herein, recommends the appeal be dismissed on jurisdictional grounds.

PROCEDURAL BACKGROUND AND UNDISPUTED FACTS

1. The appeal was filed by Appellant on February 20, 2024. The Appellant alleged in her appeal that the Appellee Personnel Cabinet improperly failed to approve her reclassification from Staff Attorney I to Staff Attorney II due to the fact that the Appellant did not meet the minimum requirements of a Staff Attorney II.
2. The Appellant was recommended for reclassification to the Staff Attorney II position by her agency, the Department of Public Advocacy, on or about January 10, 2024.
3. The Personnel Cabinet denied the reclassification on or about January 24, 2024, based on its conclusion that the Appellant did not meet the minimum requirement of one (1) year of experience as a licensed attorney.
4. The Appellant sought reconsideration of the Personnel Cabinet's decision regarding the minimum qualifications and the denial of her reclassification. The Appellant argued that the Personnel Cabinet erroneously failed to count her experience working as a supervised practice attorney toward the one (1) year minimum qualification requirement.
5. The Appellant's request for reconsideration was denied by the Personnel Cabinet.

CONCLUSIONS OF LAW

1. A reviewing body generally has "an affirmative obligation to ensure that it is acting within its subject matter jurisdiction" and shall dismiss a case "at any point in the litigation" if that body "determines that it lacks subject-matter jurisdiction." *Basin Energy Co. v. Howard*, 447 S.W.3d 179, 187 (Ky. App. 2014).
2. The Personnel Board is required to dismiss a case after a preliminary hearing when the Board finds that "it lacks jurisdiction to grant relief." KRS 18A.095(16)(a).
3. A hearing officer may make a recommended order for dismissal in a matter where

there are no genuine issues of material fact, and one party is entitled to judgment as a matter of law. KRS 13B.090(2).

4. There are no genuine issues of material fact in this case. The only question before the Personnel Board at this juncture is whether the Board has jurisdiction to hear the appeal of the Appellant's reclassification, which is a question of law.
5. KRS 18A.095 clearly establishes that the Personnel Board does not have jurisdiction to decide cases involving disputes on reclassifications or minimum qualifications.
6. KRS 18A.095(10)(b) unequivocally states that the Secretary of the Personnel Cabinet has final authority to consider a request for reclassification and the "[S]ecretary's determination shall be final and shall not be appealable to the Personnel Board."
7. Likewise, KRS 18A.095(12)(a) states that any applicant "notified by the Personnel Cabinet that he or she did not meet the minimum qualifications for a position may request reconsideration" by the Secretary of the Personnel Cabinet but the Secretary's "determination shall be final and shall not be appealable to the Personnel Board."
8. The Appellant has not been subjected to any of the personnel actions specifically listed under KRS 18A.095 for review by the Personnel Board, which include: a) dismissal, b) demotion, c) suspension, d) involuntary transfer, and e) protected class discrimination.
9. Based on the foregoing, the Personnel Board is without jurisdiction to hear this appeal, and the Appellee is entitled to judgment as a matter of law, pursuant to KRS 18A.095.

RECOMMENDED ORDER

WHEREFORE, the Hearing Officer, after careful review and consideration of the record in this appeal and the applicable provisions of KRS 18A.095, recommends to the Kentucky Personnel Board that the appeal of **MARTINA LYTLE V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF PUBLIC ADVOCACY (APPEAL NO. 2024-030)**, 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).

[Hearing Officer Note: Any document filed with the Personnel Board shall also be served on the opposing party.]

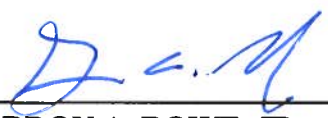
The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

The parties are strongly encouraged to send any exceptions and/or requests for oral argument by email to: PersonnelBoard@ky.gov

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.

SO ORDERED at the direction of the Hearing Officer this 7th day of February, 2025.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR.
EXECUTIVE DIRECTOR

A copy hereof was emailed and mailed to the following persons at their respective addresses as provided to the Personnel Board on this 7th day of February, 2025:

Martina Lytle, Appellant
Hon. Melanie Lowe, Counsel for Appellee
Hon. Catherine Stevens, Counsel for Appellee
Hon. Cheyla Bush, Counsel for Appellee