



**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2012-222**

**KARLA MUSE**

**APPELLANT**

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

**JUSTICE AND PUBLIC SAFETY CABINET,  
DEPARTMENT OF JUVENILE JUSTICE,  
J. MICHAEL BROWN, APPOINTING AUTHORITY**

**APPELLEE**

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This matter came on for pre-hearing conference on November 13, 2012, at 10:00 a.m. ET, at 28 Fountain Place, Frankfort, KY, before the Hon. Boyce A. Crocker, Hearing Officer. The proceedings were recorded by audio/video equipment pursuant to the authority found at KRS Chapter 18A.

Appellant Karla Muse was present by telephone and not represented by legal counsel. Appellee Justice and Public Safety Cabinet, Department of Juvenile Justice, was present and represented by the Hon. Adam Adkins.

The purposes of the pre-hearing conference were to define the issues, address any other matters relating to this appeal, and to discuss the option of mediation.

The Hearing Officer notes this appeal was filed on October 1, 2012. Appellant was appealing her involuntary transfer from the Lincoln Youth Village Youth Development Center to the Audubon Youth Development Center. This transfer initially occurred by letter dated July 31, 2012; corrected by letter dated August 1, 2012.

In her appeal, Appellant stated the involuntary transfer created a great hardship for her. At the pre-hearing, the Hearing Officer became aware that Appellant had resigned her position with DJJ and was currently seeking other employment, and had even applied on the register for a vacant Probation and Parole position.

Appellee asked for time in which to file a Motion to Dismiss, contending the Personnel Board would lack jurisdiction to consider this appeal. A briefing schedule was established.

Appellee filed its Motion to Dismiss in accordance with the schedule. Appellant, although given ample time, did not file a response. The matter is submitted to the Hearing Officer for a ruling on Appellee's Motion to Dismiss.

**BACKGROUND**

1. During the relevant times, Appellant was a classified employee with status.
2. On or about July 31, 2012 (followed up by memo dated August 27, 2012), Appellant was notified she was being permanently reassigned to the Audubon Youth Development Center from the Lincoln Village Regional Juvenile Detention/Youth Development Center.
3. In its Motion to Dismiss, Appellee contends this matter should be dismissed as moot because Appellant voluntarily resigned her position at Audubon on October 1, 2012. Counsel stated that Appellant, at the pre-hearing conference in this matter, “stated that she sought appointment to full-time employment to some unspecified position in her current county of residence.”
4. As noted, though given ample time in which to file a response, Appellant has not done so.
5. KRS 18A.095(18)(a) states:

The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100.

**FINDINGS OF FACT**

1. During the relevant times, Appellant was a classified employee with status.
2. The Hearing Officer finds that Appellant was involuntarily transferred from the Lincoln Village Regional Juvenile Detention/Youth Development Center to the Audubon Youth Development Center in the time frame of July to August, 2012. The stated reason for the transfer was the closure of the Lincoln Village Youth Development Center.
3. The Hearing Officer finds that Appellant resigned her position, and so admitted at the pre-hearing conference, with the Department of Juvenile Justice on or about October 1, 2012.

4. The Hearing Officer finds that the basis of Appellant's appeal was the involuntary transfer, and that as Appellant had resigned from the position, that the Personnel Board does not have jurisdiction to grant relief to now place Appellant in some unspecified position.

### **CONCLUSIONS OF LAW**

1. The Hearing Officer concludes as a matter of law that pursuant to KRS 18A.095(18)(a), the Appellee is correct that the Personnel Board is without jurisdiction to grant relief based upon what the Appellant is seeking as relief, and also based upon Appellant's having voluntarily resigned her position subsequent to the involuntary transfer.

2. As the Hearing Officer concludes the appeal should be dismissed.

### **RECOMMENDED ORDER**

The Hearing Officer recommends to the Personnel Board that the appeal of **KARLA MUSE V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF CORRECTIONS, (APPEAL NO. 2012-222)** 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 Boyce A. Crocker** this \_\_\_\_\_ day of December, 2012.

**KENTUCKY PERSONNEL BOARD**

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**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof this day mailed to:

Hon. Adam Adkins  
Ms. Karla Muse