

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-044

DEWAYNE REID

APPELLANT

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

JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF CORRECTIONS

APPELLEE

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

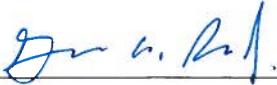
The Board, at its regular October 2025 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated August 28, 2025, and being duly advised,

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 October, 2025.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR., SECRETARY

Copies hereof this day emailed and mailed to:

DeWayne Reid, Appellant
Hon. Kristin Wehking, counsel for Appellee
Hon. Rosemary Holbrook (Personnel Cabinet)
Rodney Moore

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-044

DEWAYNE REID

APPELLANT

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDED ORDER

v.

JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF CORRECTIONS

APPELLEE

* * * * *

This matter comes before the Hearing Officer on the appellee Justice and Public Safety Cabinet, Department of Corrections' motion to dismiss the appeal. The appeal last came on for a pre-hearing conference on February 20, 2025, 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, DeWayne Reid (the "Appellant"), was present by telephone and was not represented by legal counsel. The appellee herein, the Justice and Public Safety Cabinet, Department of Corrections (the "Appellee" or "DOC"), was present by telephone and was represented by the Hon. Kristin Wehking.

As described in his Appeal Form, the Appellant has appealed a written reprimand issued in writing by the Appellee on March 20, 2023. The Appellant also contends that he has been subjected to disability and age discrimination at least in part related to the written reprimand. [See Appeal Form at p. 1.] Counsel for the Appellee has filed a motion to dismiss the appeal on jurisdictional grounds, specifically that the Appellant cannot appeal a written reprimand as a matter of law and the Appellant has produced no evidence of discrimination. Based on the reasons stated in more detail below, the Hearing Officer finds the motion to dismiss well-taken and recommends the Board dismiss this appeal.

FINDINGS OF FACT

1. The Appellant is employed by the Department of Corrections as a Probation and Parole Officer I. He is a classified employee with status who has been an employee of the Department of Corrections for over ten (10) years. [See Appeal Form at p. 2.]

2. On March 20, 2023, the Appellant was given a written reprimand by the Appellee for incorrectly issuing a violation report and requesting a parole violation warrant on an offender who had completed his parole supervision on September 6, 2022. As a result of the Appellant's actions, the offender was apprehended on March 1, 2023. [See letter of Written Reprimand (the "Reprimand Letter") dated March 20, 2023, which is attached to the Appeal Form.] On March 6, 2023, another employee found the error and the offender's warrant was rescinded. In the Reprimand Letter, the Appellee stated that the Appellant's actions violated Corrections Policy and Procedure (CPP) 27-24-01, which requires an officer to provide the final notice of discharge to an offender whose parole has expired and to "document completion of supervision in the case record." [See Reprimand Letter at p. 2, quoting from CPP 27-24-01.]

3. The Appellant timely filed this appeal on March 30, 2023. He appealed the written reprimand as an "other penalization" and also claimed age and disability discrimination. [See Appeal Form.]

4. The Appellant conceded in the Appeal Form statement that the essential facts stated in his written reprimand were accurate. In particular, the Appellant admitted in his statement that he wrote a violation report on a former parolee "on 2/12/23..." who "was discharged from his parole case on 9/26/22." [See Appeal Form.] According to Department of Corrections policy CPP 27-24-01, the Appellant had a duty to review the offender's file to determine "if all conditions of release had been met..." and thereafter to refrain from taking any action that would cause the parolee to "be held beyond his expiration date." In addition, according to CPP 27-24-01, the Appellant had a duty to provide a notice of final discharge to the offender..." and to "document completion of supervision in the case record and close the case within in the offender management system within ten (10) working days after the expiration date has been reached."

5. The Appellant noted that he was out of the office "on medical leave from 6/27/22 to 10/1/22" but offered no explanation as to why that leave would have caused him to issue a

parole violation warrant on February 12, 2023, almost four (4) months after his return from medical leave.

6. A pre-hearing conference was held on July 13, 2023. During the pre-hearing conference, the Appellant stated that he “was fifty-one years old” and “is not as quick as he used to be and is not able to remember things as well as he used to.” [See July 18, 2023, Interim Order.] The Appellant also stated that he has post-traumatic stress disorder (PTSD), which causes him to have difficulty “dealing with high pressure situations” and he got very anxious when “he learned he was getting a written reprimand.” [See July 18, 2023, Interim Order.]

7. The Appellee timely served the Appellant with discovery requests on April 5, 2024. Those discovery requests, among other requests, specifically asked the Appellant to identify his disability, whether he disclosed his disability to the Appellee, his basis for believing he was discriminated against based on his disability, and what evidence, witnesses and/or facts would support the claims in his appeal.

8. The Appellant never responded to the Appellee’s discovery requests. The Appellant never provided any affirmative evidence of his discrimination claim(s).

9. On July 19, 2024, the Appellee timely filed a motion to dismiss the appeal on the grounds that: a) the Personnel Board does not have jurisdiction to hear an appeal of a written reprimand; and b) the Appellant failed to make out a *prima facie* case on his discrimination claims.

10. The Appellant never filed a response to the Appellee’s motion to dismiss.

CONCLUSIONS OF LAW

1. Pursuant to KRS 18A.095(16)(a), the Personnel Board “shall deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief.”

2. The Personnel Board does not have authority to hear any appeal not specifically authorized by KRS Chapter 18A. In fact, the Personnel Board is **required** to dismiss any appeal in which it determines “it lacks jurisdiction to grant relief.” KRS 18A.095(16)(a).

3. In terms of the written reprimand, the Board clearly does not have jurisdiction to hear the Appellant's appeal of that action. A written reprimand is not one of the personnel actions specifically enumerated under KRS 18A.095 that employees can appeal. *See KRS 18A.095(7) and (8)* (classified employees may appeal dismissal, suspension, demotion and involuntary transfer actions within thirty days of notification of action). The Personnel Board has consistently held that it does not have jurisdiction to hear an appeal of a written reprimand. *See e.g. Jackie Arnold v. Education and Workforce Development Cabinet*, 2021 WL 6050520 (KY PB) (concluding unambiguously that written reprimands are not appealable to the Personnel Board).

4. An employee who has received a written reprimand has limited remedies. After the employee has reviewed a written reprimand, the employee may draft a written response to the reprimand and the response will be included in his/her personnel file. KRS 18A.020(2)(c). Three (3) years after the written reprimand has been issued, the employee can petition the Secretary of the Personnel Cabinet to remove the written reprimand from the employee's personnel file. 101 KAR 1:335, Section 5.(1). The Personnel Cabinet Secretary's decision on whether to remove the reprimand is final and not appealable to the Personnel Board. 101 KAR 1:335, Section 5.(2)(b).

5. KRS 18A.095 also permits a classified employee to appeal a discriminatory personnel action but the employee must prove the elements of discrimination.

6. In order to make out a *prima facie* case of discrimination, the party alleging discrimination must prove that:

- a) he is a member of a protected class;
- b) he was subject to an adverse employment action;
- c) he was qualified for the job; and
- d) he was replaced by a person outside the protected class, or he was treated differently than similarly situated individuals outside the protected class.

McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973).

7. Even if a claimant makes out a *prima facie* case, the employer may rebut the presumption of discrimination by articulating a legitimate, non-discriminatory reason for the adverse employment action. *McDonnell Douglas Corp.*, 411 U.S. at 802 (1973); *Board of Regents of Northern Kentucky University v. Weickgenannt*, 485 S.W.2d 299 (6th Cir. 2016).

8. In this appeal, the Appellant has not made out a *prima facie* case of either disability discrimination or age discrimination. In terms of disability discrimination, although employee has made a bare allegation of having PTSD, he has not produced any affirmative evidence to show that this alleged PTSD condition constitutes a disability. He has also not identified any similarly situated employees without a disability who were treated more favorably than he was. Likewise, the Appellant has not identified any employees under forty (40) years of age who were treated more favorably than he was. Finally, his employer, the Appellee, has produced a legitimate, non-discriminatory reason for his written reprimand, which the Appellant has not disputed, the error in issuing a warrant for a former offender who had been released from his parole conditions.

9. Therefore, there are no material facts in dispute in this appeal and the Appellee is entitled to judgment as a matter of law in relation to the reprimand and the discrimination claims.

RECOMMENDED ORDER

WHEREFORE, based on the nature of the written reprimand underlying this appeal and the limitations of the Personnel Board's jurisdiction under KRS 18A.095(16)(a) and 101 KAR 1:335, the Hearing Officer **RECOMMENDS** that the appeal of **DEWAYNE REID V. JUSTICE AND SAFETY CABINET, DEPARTMENT OF CORRECTIONS (Appeal No. 2023-044)**, 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 28th day of August, 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 28th day of August, 2025:

Dewayne Reid, Appellant

Hon. Kristin Wehking, Counsel for Appellee

Hon. Rosemary Holbrook, Personnel Cabinet