

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2022-118

SOLEDAD SANDERS

APPELLANT

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

**ADMINISTRATIVE OFFICE OF THE COURTS**

and

**PERSONNEL CABINET**

**APPELLEES**

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The Board, at its regular February 2023 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated January 3, 2023, 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 14<sup>th</sup> day of February, 2023.

**KENTUCKY PERSONNEL BOARD**

  
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**MARK A. SIPEK, SECRETARY**

Copies hereof this day sent to:

Soledad Sanders  
Hon. Danielle Haddad  
Hon. Zach Mowen  
Hon. Rosemary Holbrook (Personnel Cabinet)

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This matter came on for a pre-hearing conference on October 17, 2022, at 2:30 p.m., ET, at 1025 Capital Center Drive Suite 105, Frankfort Kentucky, before Hearing Officer Mark A. Sipek. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Soledad Sanders was present and was not represented by legal counsel. The Appellee Administrative Office of the Courts (AOC) was present and was represented by the Hon. Danielle Haddad. The Appellee Personnel Cabinet was present and was represented by the Hon. Zachary Mowen.

The purposes of the pre-hearing conference were to determine the specific penalization(s) alleged by the Appellant, to determine the specific section of KRS 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, including whether the Personnel Board has jurisdiction over this appeal, and to discuss the option of mediation.

FINDINGS OF FACT

1. The Appellant filed her appeal with the Personnel Board on August 24, 2022. She appealed from her dismissal in addition to alleging race, religion, ethnic origin, and political discrimination. She also indicated she was appealing from a suspension, an employee evaluation, and the denial, abridgement, or impediment of her right to inspect or copy records. The Appellant stated she had been employed with the Jefferson County Clerk's Office for approximately seven and one-half (7.5) years. Thereafter, she worked for the Shelby County Clerk's Office. The Appellant stated she had extensive experience

working in Driver's Licensing; however, when the Clerk's office stopped performing those duties, she was not trained for additional duties. She stated she was asked to work at the front window without training. The Appellant believed her dismissal was unfair and the result of discrimination. She stated that she would like some type of severance and would like to work in a different office, possibly another Circuit Clerk's office.

2. The Appellant also filed an appeal through the Kentucky Court of Justice. A hearing had been held and she was waiting for a decision.

3. Counsel for AOC stated that the Personnel Board lacked jurisdiction to hear this appeal and asked that the AOC letter, dated August 10, 2022, be treated as a Motion to Dismiss. Counsel for the Personnel Cabinet agreed with AOC and joined in its Motion to Dismiss. The Hearing Officer granted the request, and the AOC letter was construed to be a Motion to Dismiss.

4. The Appellant was then given time to respond to the Appellees' Motion to Dismiss.

5. In its Motion to Dismiss, the Administrative Office of the Courts stated as follows:

Pursuant to Sec. 116 of the Kentucky Constitution, the Supreme Court of Kentucky has been vested with the exclusive authority over the rules for the appointment of Court of Justice personnel. Further, the Board's jurisdiction to hear appeals is limited to those employment actions involving employees serving under the state personnel system established in KRS 18A.005-18A.200, and KRS 18A.115(1)(I) expressly excludes the Court of Justice from application of those statutes. Thus, the Board does not have jurisdiction to hear appeals from an employment action involving a Shelby County Circuit Court Clerk employee. As a result, this appeal cannot be heard and considered by the Board and should be dismissed.

6. In her response to the Appellee's Motion to Dismiss, the Appellant argues that the Kentucky Court of Justice has jurisdiction over the Shelby County Circuit Court clerk and, as a result, she asked the Personnel Board to hear her appeal and to overturn the Appellee's Motion to Dismiss.

7. It is not in dispute that the Appellant is an employee of the Shelby County Circuit Court Clerk's Office, which is a part of the Judicial Branch of Government.

8. There are no material facts in dispute and this matter can be decided as a matter of law based on the appeal form, the statements of the parties at the prehearing conference, the Appellee's Motion to Dismiss, and the Appellant's Response to the Appellee's Motion to Dismiss.

### CONCLUSIONS OF LAW

1. Because the Appellant was employed by the Administrative Office of the Courts, which is a part of the judicial branch of state government, the Personnel Board lacks jurisdiction to hear this appeal from the Appellant's dismissal. This conclusion is supported by the clear language of KRS 18A.115(1)(l), KRS 27A.050, and the case of *Ex parte Farley*, 570 S.W.2d 617, 620 (Ky. 1978). In addition, it is supported by the Personnel Board's Final Order in *Randal Hayslett v. Administrative Office of the Courts*, 2008 WL 3996604 (KY PB).

2. As an administrative agency, the Personnel Board only has the jurisdictional authority afforded it by statutes. The fact that the Appellant requests that the Personnel Board hear her appeal does not grant the Personnel Board jurisdiction in this matter.

3. Dismissal following a preliminary hearing is appropriate when the Personnel Board lacks jurisdiction. KRS 18A.095 (18)(a) and KRS 13B.090(2).

### RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **SOLEDAD SANDERS VS. ADMINISTRATIVE OFFICE OF THE COURTS (APPEAL NO. 2022-118)** 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 3 day of January, 2023.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK,  
EXECUTIVE DIRECTOR

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

Soledad Sanders  
Hon. Danielle Haddad  
Hon. Zachary Mowen  
Hon. Rosemary Holbrook (Personnel Cabinet)