

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-062**

COURTNEY TURPIN

APPELLANT

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

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF CORRECTIONS**

APPELLEE

*** **

The Board, at its regular January 2024 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated December 5, 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 18th day of January, 2024.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

Copies hereof this day emailed and mailed to:

Hon. Zachary Buckler
Hon. Kristin Wehking
Hon. Rosemary Holbrook (Personnel Cabinet)
Rodney Moore

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APPELLEE

** ** ** ** **

This appeal came on for a pre-hearing conference on July 27, 2023, at 11:00 a.m. ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Mark A. Sipek, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Courtney Turpin, was not present, however, she was represented by the Hon. Zachary Buckler. The Appellee, Justice and Public Safety Cabinet, Department of Corrections, was present and represented by the Hon. Kristin Wehking. Both counsel appeared by telephone.

The purposes of the pre-hearing conference were to determine whether this appeal was filed within the time limitations set forth in KRS 18A.095, to define the issues, to address any other matters relating to this appeal, and to discuss the option of mediation.

BACKGROUND AND FINDINGS OF FACT

1. At the pre-hearing conference, it was determined that the Appellant's Appeal Form was filed with the Personnel Board on May 8, 2023, regarding a ten (10) - day suspension. The suspension letter was dated February 28, 2023. The Hearing Officer questioned whether the appeal was timely filed. Neither counsel knew when the Appellant received the suspension letter or the method used to transmit the suspension letter to the Appellant. Both counsel agreed to do some homework on this issue. This matter was scheduled for a follow-up pre-hearing conference.

2. At the follow-up pre-hearing conference conducted on August 28, 2023, it was determined that there was a conflict as to whether or not this appeal was timely filed. A schedule was set for dispositive motions.

3. The Appellee filed a Motion to Dismiss arguing that the appeal was untimely filed.

4. The Appellant was notified of her suspension by Agency letter dated February 28, 2023. She served her suspension from March 1, through March 14, 2023, and was to return to work on March 15, 2023. The Notice of Suspension informed the Appellant she had a right to file an appeal with the Personnel Board within sixty (60) - days after receipt of the notice.

5. The Appellant filed her appeal with the Personnel Board on May 8, 2023. The Appellant, who was represented by counsel at the time she filed her appeal, included the following statement with her appeal form:

Comes Courtney Turpin, by and through undersigned counsel, and hereby provides the following short, plain, and concise statement of the facts which relate to her appeal, as required Form #18:

On or about February 28, 2023, the Kentucky Department of Corrections notified this Appellant of her suspension on March 1, 2023, through March 14, 2023.

Ms. Turpin feels that she was wrongfully suspended. She was never given a Performance Improvement Plan, and her annual performance review in 2022 indicated exemplary performance.

Ms. Turpin respectfully requests the Personnel Board to review the suspension.

6. Although given an opportunity to respond to the Appellee's Motion to Dismiss, the Appellant did not file a response.

7. There are no material facts in dispute and this appeal can be decided as a matter of law based on the appeal form, the statements of the parties at the pre-hearing conference, the Appellee's Motion to Dismiss, and the Agency's suspension letter.

CONCLUSIONS OF LAW

1. The Appellant was notified of her suspension on or about February 28, 2023, and was informed that she needed to file her appeal within sixty (60) - days of receipt of the Agency suspension notice.
2. The Appellant did not file her appeal with the Personnel Board until May 8, 2023, beyond the sixty (60) - day statute of limitations. KRS 18A.095(8).
3. Because the Appellant did not file her appeal within the sixty (60) - day time period, the Personnel Board lacks jurisdiction to hear this appeal and to grant the Appellant any relief. KRS 18A.095(18)(a).
4. There are no material facts in dispute and this appeal can be dismissed as a matter of law without an evidentiary hearing. KRS 13B.090(2).
5. Because all of the events associated with this appeal occurred before the passage of Senate Bill 153, this case has been decided based on the provisions of KRS Chapter 18A in effect at the time.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **COURTNEY TURPIN V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF CORRECTIONS (APPEAL NO. 2023-062)** 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).

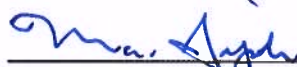
The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

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.

Any document filed with the Personnel Board shall be served on the opposing party.

SO ORDERED at the direction of the Hearing Officer this 5 day of December, 2023.

KENTUCKY PERSONNEL BOARD



MARK A. SIPER
EXECUTIVE DIRECTOR

A copy hereof this day emailed and mailed to:

Hon. Zachary Buckler

Hon. Kristin Wehking

Hon. Rosemary Holbrook (Personnel Cabinet)