

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD**

LINDSEY PIERCE (Appeal No. 2016-129)
TRACY TURNER (Appeal No. 2016-131)
MICHAEL LITTLE (Appeal No. 2016-133)
BELINDA LITTRELL (Appeal No. 2016-134)
ALEXIS MCGEE (Appeal No. 2016-135)
DANIEL RENDLEMAN (Appeal No. 2016-136)
PEGGY ZACHRITZ (Appeal No. 2016-137)
KIMBERLY LEWIS (Appeal No. 2016-140)
EMILY CRIDER (Appeal No. 2016-143)
NICOLE MANN (Appeal No. 2016-144)
DYLAN GREER (Appeal No. 2016-148)
DIEDRA MAYFIELD (Appeal No. 2016-149)
CHRISTY BASHAM (Appeal No. 2016-153)
DEANA OWENS (Appeal No. 2016-154)
KIMBERLY CRASE (Appeal No. 2016-156)
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JOHN MCDOWELL (Appeal No. 2016-161)
PENNY MCDOWELL (Appeal No. 2016-162)
SARAH AKERS (Appeal No. 2016-172)
LISA ANGEL (Appeal No. 2016-173)
DEREK BAKER (Appeal No. 2016-174)
JESSICA BEVERLY (Appeal No. 2016-176)
ROBERT BROCK (Appeal No. 2016-177)
BRIAN BULLOCK (Appeal No. 2016-178)
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DENNIS TEGETHOFF (Appeal No. 2016-198)
CHRISTY WAHL (Appeal No. 2016-199)
HOUSTON WHITE (Appeal No. 2016-200)

WINSTON WILSON, JR. (Appeal No. 2016-201)
JENNIFER YOUNT (Appeal No. 2016-203)
CAMMIE BEASLEY (Appeal No. 2016-206)
TONY CORNWELL (Appeal No. 2016-207)
ERIC SMITH (Appeal No. 2016-208)
MICHAEL WILLIAMS (Appeal No. 2016-209)
NITA FRANKLIN (Appeal No. 2016-210)
JOSEPH MATTINGLY (Appeal No. 2016-211)
JAMES PARIS (Appeal No. 2016-212)
LAUREN RUSSELL (Appeal No. 2016-213)
JODI SHACKLETTE (Appeal No. 2016-214)
CHARLES STEWART, JR. (Appeal No. 2016-215)
BRIDGET STONE (Appeal No. 2016-216)
COREY WRIGHT (Appeal No. 2016-218)
MICHELLE BAKER (Appeal No. 2016-219)
MARTHA DAVENPORT (Appeal No. 2016-220)
FAITH FARLEY (Appeal No. 2016-222)
RICHARD JONES (Appeal No. 2016-223)
ALLYSON TATMAN (Appeal No. 2016-225)
TIMOTHY MACKIN, JR. (Appeal No. 2016-227)
GINGER HUNT (Appeal No. 2016-231)
ERIC ROBINSON (Appeal No. 2016-234)
AMANDA SILER (Appeal No. 2016-252)

APPELLANTS

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

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF STATE POLICE
And
PERSONNEL CABINET**

APPELLEE

INTERVENOR

*** **

The Board, at its regular January 2019 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated December 6, 2018, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be altered as follows:

A. **Delete** Conclusion of Law C (2) and (3) and substitute the following:

2. Appellees contend that Appellants' Equal Protection claim does not apply in the public employment context. They further argue that a U.S. Supreme Court case, *Enquist v. Oregon Department of Agr.*, 553 U.S. 591 (2008) dictates a finding that Appellants' claim is legally deficient and must be dismissed as a matter of law. In the *Enquist* case, the central issue before the United Supreme Court was "whether a public employee can state a claim under the Equal Protection Clause by alleging that she was arbitrarily treated differently from similarly situated employees, with no assertion that the different treatment was based on the employee's membership in any particular class." *Id.* at 594. Appellees interpret the *Enquist* decision as disallowing "class of one" allegations against public employers.

3. The Hearing Officer finds that the case of *Enquist v. Oregon Dept. of Agr.*, does, in fact, mandate the dismissal of Appellants' Equal Protection claim.

IT IS FURTHER ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer, as Altered, be and they hereby are, approved, adopted and incorporated herein by reference as a part of this Order, and the Appellants' appeals are **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 14th day of January, 2019.

KENTUCKY PERSONNEL BOARD


MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:
Hon. David Broderick
Hon. Brandon Murley
Hon. Heather Wagers
Hon. Rosemary Holbrook
Lt. Col. Chad White
Ms. Amanda Cloyd