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**THE DISTRICT OF COLUMBIA  
BEFORE  
THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	OEA Matter No.: 1601-0038-24
EMPLOYEE, <sup>1</sup>	)	
Employee	)	
	)	Date of Issuance: February 14, 2025
v.	)	
	)	
D.C. DEPARTMENT OF YOUTH	)	
REHABILITATION SERVICES,	)	NATIYA CURTIS, Esq.
Agency	)	Administrative Judge
	)	
Employee, <i>Pro Se</i>		
Michele McGee, Esq., Agency Representative		

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL HISTORY**

On March 21, 2024, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Department of Youth Rehabilitation Services’ (“Agency” or “DYRS”) decision to terminate her from her position as a Youth Development Representative, effective February 22, 2024. The removal action was for inability to carry out assigned duties.<sup>2</sup> OEA issued a letter dated March 22, 2024, requesting Agency file an Answer on or before April 21, 2024. Agency filed its Answer to Employee’s Petition for Appeal as required. This matter was assigned to the undersigned Administrative Judge on April 23, 2024.

On April 30, 2024, I issued an Order Convening a Prehearing Conference for June 6, 2024. On May 15, 2024, Agency submitted a Request for Issuance of Subpoenas Duces Tecum. On May 20, 2024, I issued an Order, staying the Prehearing Conference and convening a Status/Discovery Conference for June 6, 2024, which was rescheduled to June 26, 2024, due to scheduling conflicts. The parties appeared for the Status/Discovery Conference on June 26, 2024, as required. During that conference, the undersigned extended the deadline for discovery and scheduled a Status Conference for July 19, 2024. On July 17, 2024, Agency filed a Consent Motion to extend the time for discovery through August 31, 2024. A Status/Discovery Conference was convened on July 19, 2024. After the Status/Discovery Conference, the

<sup>1</sup> Employee’s name was removed from this decision for the purposes of publication on the Office of Employee Appeals’ website.

<sup>2</sup> Agency’s Answer to Employee’s Petition for Appeal (April 19, 2024).

undersigned issued a Post Status/Discovery Conference Order granting Agency's Consent Motion in part and extending discovery in this matter through August 8, 2024.

On August 12, 2024, I issued an Order convening a Prehearing Conference for September 19, 2024. The parties appeared at the Prehearing Conference as required. On September 20, 2024, I issued a Post Prehearing Conference Order requiring the parties to submit briefs addressing the issues in the matter. Agency's brief was due by October 28, 2024. Employee's brief was due by November 25, 2024. Agency had the option to submit a sur-reply brief by or before December 19, 2024. On October 28, 2024, Agency filed a Motion for an Extension of Time to file its brief. On October 30, 2024, I issued an Order granting Agency's Motion. Agency's brief was now due by or before November 18, 2024. Further, Employee's brief was now due by or before December 13, 2024. Agency submitted its initial brief as required. Employee failed to submit her brief as required.

As a result, on December 19, 2024, I issued an Order for Statement of Good Cause, requiring Employee to submit her brief along with a statement of good cause for her failure to submit a response by the deadline required by the October 30, 2024, Order.<sup>3</sup> Employee's brief and statement of good cause was due by January 3, 2025. Employee did not submit her statement and brief as required. On January 21, 2025, I issued a second Order for Statement of Good Cause and Brief to Employee. Employee's brief and statement of good cause was due by February 4, 2025. As of the date of this decision, Employee has not submitted her brief and statement of good cause as required. The record is now closed.

#### JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code §1-606.03 (2001).

#### ISSUE

Whether this Appeal should be dismissed for failure to prosecute.

#### BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for material issues of fact shall be by a preponderance of the evidence.

Preponderance of the evidence shall mean: That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 631.2 *id.* states:

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<sup>3</sup> A courtesy copy of this Order was emailed to the parties on December 30, 2024.

For Appeals filed under § 604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

#### ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 624.3, DCMR Ch. 600, et seq (December 27, 2021) grants an Administrative Judge the authority to "...dismiss the action or rule for the appellant" if a party fails to take reasonable steps to prosecute or defend an appeal. Failure of a party to prosecute or defend an appeal includes, but is not limited to, a failure to:

- (a) Appear at a scheduled proceeding after receiving notice;
- (b) *Submit required documents after being provided with a deadline for such submission* (emphasis added); or
- (c) Inform this Office of a change of address which results in correspondence being returned.

This Office has consistently held that a matter may be dismissed for failure to prosecute when a party fails to appear for scheduled proceedings or fails to submit required documents.<sup>4</sup> Here, Employee was advised in both of the Orders for Statement of Good Cause issued on December 19, 2024 and January 21, 2025, that failure to comply with those Orders could result in sanctions, including dismissal. As of the date of this decision, Employee has not responded or provided a written response to the December 19, 2024, and January 21, 2025, Orders. Employee's response was required to make an informed decision regarding the resolution of this matter. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and Employee's inaction presents a valid basis for dismissing this matter. For these reasons, I find that this matter should be dismissed for Employee's failure to prosecute.

#### ORDER

It is hereby **ORDERED** that the Petition in this matter is **DISMISSED** for failure to prosecute.

FOR THE OFFICE:

/s/ Natiya Curtis  
Natiya Curtis Esq.  
Administrative Judge

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<sup>4</sup> See. *David Bailey Jr. v. Metropolitan Police Department*, OEA Matter No. 1601-0007-16 (April 14, 2016).