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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0054-12
DAVID JARBOE,)	
Employee)	
)	Date of Issuance: March 19, 2014
v.)	
)	
METROPOLITAN POLICE DEPARTMENT,)	
Agency)	
_____)	
)	Arien P. Cannon, Esq.
)	Administrative Judge

David Jarboe, Employee, *Pro se*
Brenda Wilmore, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

David Jarboe (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) on January 26, 2012, challenging the Metropolitan Police Department’s (“Agency” or “MPD”) decision to suspend him for thirty (30) workdays.¹ Employee is a Police Officer with the Agency. Agency filed its Answer on February 28, 2012. I was assigned this matter on August 26, 2013.

A Status Conference Order was issued on January 17, 2014, wherein a Status Conference was scheduled for February 24, 2014. Agency’s representative was present; however, Employee failed to appear. A Show Cause Order was issued the same day, which required Employee to provide a statement of good cause for failing to appear at the Status Conference. Employee had until March 3, 2014, to respond to this Order. To date, Employee has not responded to the Show Cause Order.

¹ Although a letter from the Chief of Police, dated December 28, 2011, states that Employee’s *thirty-five (35) day* suspension is being upheld, the Final Notice of Adverse Action in Agency’s Answer at Tab 4, states that Employee’s suspension is a *30-day* suspension. For purposes of this decision, Employee was suspended for 30 work days.

JURISDICTION

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

ISSUE

Whether this matter should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

A Status Conference was convened in this matter on February 24, 2014. Agency's representative was present; however, Employee failed to appear. Thereafter, a Show Cause Order was issued on the same day which required Employee to provide a statement of good cause for failing to appear at the Status Conference. The Show Cause Order stated that failure to respond to the order may result in the imposition of sanctions pursuant to OEA Rule 621, including dismissal of Employee's appeal.² To date, Employee has not responded to the Show Cause Order.

In accordance with OEA Rule 621.3, this Office has long maintained that a Petition for Appeal may be dismissed when an employee fails to prosecute his/her appeal. If a party fails to take reasonable steps to prosecute or defend an appeal, the Administrative Judge, in the exercise of sound discretion, may dismiss the action.³ Failure of a party to prosecute an appeal includes a failure to submit required documents after being provided with a deadline for such submission and failure to appear at a scheduled proceeding. Here, Employee failed to appear at the scheduled Status Conference on February 24, 2014. Employee has also failed to respond to the Show Cause Order issued on February 24, 2014. Employee was warned that failure to respond may result in the imposition of sanctions, including dismissal of his appeal. Accordingly, I find that Employee has failed to exercise due diligence and take reasonable steps in prosecuting his appeal before this Office.

ORDER

Based on the aforementioned, it is hereby **ORDERED** that Employee's Petition for Appeal in this matter is **DISMISSED** for failure to prosecute.

FOR THE OFFICE:

Arien P. Cannon, Esq.

² 59 DCR 2129 (March 16, 2012).

³ OEA Rule 621.3, 59 DCR 2129 (March 16, 2012).

Administrative Judge