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

_____)	
In the Matter of:)	
)	
TRACYE GARRETT-HERNDON,)	
Employee)	OEA Matter No. 1601-0033-20
)	
v.)	Date of Issuance: September 3, 2020
D.C. DEPARTMENT OF)	
CORRECTIONS,)	
Agency)	MICHELLE R. HARRIS, ESQ.
)	Administrative Judge
)	
_____)	
Ann Kathryn So, Esq., Employee Representative)	
Andrea Comentale, Esq., Agency Representative)	

INITIAL DECISION¹

INTRODUCTION AND PROCEDURAL HISTORY

On February 13, 2020, Tracye Garrett-Herndon (“Employee”), filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Department of Corrections’ (“Agency”) decision to suspend her from service. On March 19, 2020, Agency filed its Motion to Dismiss Employee’s Petition for Appeal, citing that OEA lacked jurisdiction over this matter because Employee had only been suspended for nine (9) days. This matter was assigned to the undersigned Administrative Judge (“AJ”) on July 20, 2020. On July 30, 2020, I issued an Order requiring Employee to respond to Agency’s Motion to Dismiss. Employee’s response was due on or before August 17, 2020, and Agency had the option to respond on or before August 31, 2020. On August 18, 2020, Employee by and through her counsel, filed a response stating in pertinent part that, Employee previously believed she had served a ten (10) day suspension and “requests that this Office dismiss the claim before it and remand it to Agency to allow Dr. Garrett-Herndon to file a grievance to appeal her suspension.”² The record is now closed.

JURISDICTION

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

¹ This Initial Decision was issued during the District of Columbia’s COVID-19 State of Emergency.

² Employee’s Response (August 18, 2020).

ISSUE

Whether this appeal should be dismissed based upon Employee's voluntary withdrawal.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Employee noted in her August 18, 2020 response that she was not aware that the suspension was for nine (9) days and believed it had been for ten (10). Further, Employee requested this Office dismiss the matter before it and remand it to Agency to allow her to file a grievance to appeal her suspension. Accordingly, I find that Employee's request is a voluntary withdrawal of her appeal before this Office. With regard to the request to remand the matter to Agency, it should be noted that this Office has no authority to remand this matter to Agency for the grievance process. It is an established matter of public law that as of October 21, 1998, pursuant to the Omnibus Personnel Reform Amendment Act of 1998 (OPRAA), D.C. Law 12-124, OEA no longer has jurisdiction over grievance appeals. Any grievance filed will be done at Employee's own accord. For the aforementioned reasons, I find that since Employee has voluntarily withdrawn her appeal, Employee's Petition for Appeal should be dismissed.

ORDER

It is hereby **ORDERED** that the Petition for Appeal in this matter is **DISMISSED**.

FOR THE OFFICE:

/s/ Michelle R. Harris
MICHELLE R. HARRIS, Esq.
Administrative Judge