

Notice: This decision is subject to formal revision before publication in the *District of Columbia Register*. Parties are requested to notify the Office Manager of any formal errors in order that corrections may be made prior to publication. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA  
BEFORE  
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
MICHAEL DUBOSE	)	OEA Matter No. 1601-0030-07CA11
Employee	)	
v.	)	Date of Issuance: October 4, 2011
DISTRICT OF COLUMBIA DEPARTMENT	)	
OF CORRECTIONS	)	Lois Hochhauser, Esq.
Agency	)	Administrative Judge

Frank McDougald, Esq., Agency Representative  
James McCollum, Jr., Esq., Employee Representative

**ADDENDUM DECISION ON ATTORNEY FEES AND COMPLIANCE**

INTRODUCTION AND PROCEDURAL BACKGROUND

Michael DuBose, Employee herein, filed a petition with the Office of Employee Appeals (OEA) on December 1, 2006, appealing the decision of the District of Columbia Department of Corrections, Agency herein, to remove him from his position as a Correctional Program Specialist. Following an evidentiary hearing and the submission of written closing arguments, I issued an Initial Decision on October 19, 2007, in which I reversed Agency's decision and directed Agency to reinstate Employee and provide other appropriate relief. Agency filed a petition for review with the OEA Board, which was denied on or about November 23, 2009. Agency then appealed the Board's decision to the Superior Court of the District of Columbia, which, on September 22, 2010, affirmed the Initial Decision and the Board's denial of Agency's petition for review. On or about October 25, 2010, Agency appealed the Superior Court's decision to the District of Columbia Court of Appeals. However, on December 17, 2010, the Court of Appeals dismissed the appeal at Agency's request.

On October 13, 2010, Employee filed a supplemental<sup>1</sup> motion for attorney fees and costs. His amended supplemental motion was filed on January 6, 2011. Employee sought \$151,692.80 was sought in fees and costs. Employee also requested relief based on Agency's failure to comply with the directives in the Initial Decision.

On October 18, 2010, I issued an Order directing Agency to respond to Employee's motion. On April 18, 2011, I issued an Order scheduling a status conference for May 17, 2011. The matter was continued, based on Agency's unopposed request, until May 27, 2011.

---

<sup>1</sup> His first motion was filed on December 29, 2009. Agency requested that the matter be held in abeyance until the Court issued its decision.

At the May 27 status conference, in addition to Mr. McDougald who represented Agency, and Mr. McCollum, who represented Employee; Mitch Franks was present on behalf of Agency, and Employee was present. The parties presented their positions, and we discussed, in great detail, the array of outstanding issues, the status of those issues, and at the end of the proceeding, we set a deadline for determining if those issues could be resolved by the parties. The issues included: reinstatement; the position to which Employee would be reinstated; back pay, sick leave and annual leave; and attorney fees. An Order was issued on May 31, 2011 memorializing the discussion and results of the status conference. It directed the parties to submit a status report by June 8, 2011 on the issue of attorney fees and by June 30, 2011 on the remaining issues. Several Orders were issued thereafter, granting the parties' requests for additional time, based on their representations that they were in negotiations and moving closer to resolving all issues.

On September 30, 2011, Employee, through counsel, submitted a "Line", which stated that "all issues have been resolved and [Employee's] requests for compliance and attorneys' fees are withdrawn." The record closed on September 30, 2011.

#### JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Code Ann. §1-606.08 (2001).

#### ISSUE

Should the motions related to attorney fees and compliance be dismissed?

#### FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

Employee, through counsel, has stated that all outstanding issues are resolved and he withdraws his motions attorney fees and compliance. D.C. Code §1-606.06 (2001) requires the Administrative Judge to dismiss a matter with prejudice if the parties settle a matter without a decision on the merits. Employee, through counsel, has stated that all issues have been settled by the parties and asks that his motions be withdrawn. I commend the representatives for their success in resolving these issues, which I am sure took a great deal of time and effort to achieve. I also commend them for their professionalism and cordiality throughout this process, which I am sure helped in the resolution of these issues. Based on the resolution of all issues by the parties, I conclude that the matters of compliance and attorney fees should be dismissed since there is no basis for this Office to retain jurisdiction.

#### ORDER

Based on these findings and conclusions, and consistent with this analysis, it is hereby ordered that these matters are hereby dismissed.

FOR THE OFFICE:

LOIS HOCHHAUSER, Esq.  
Administrative Judge