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

|                               |   |                                 |
|-------------------------------|---|---------------------------------|
| In the Matter of:             | ) |                                 |
|                               | ) | OEA Matter No.: 1601-0057-12    |
| MICHAEL RONEY,                | ) |                                 |
| Employee                      | ) |                                 |
|                               | ) | Date of Issuance: June 12, 2014 |
| v.                            | ) |                                 |
|                               | ) |                                 |
| DEPARTMENT OF TRANSPORTATION, | ) |                                 |
| Agency                        | ) |                                 |
|                               | ) |                                 |
|                               | ) | Arien P. Cannon, Esq.           |
|                               | ) | Administrative Judge            |

Clifford Lowery, Employee Representative  
Michael F. O’Connell, Esq., Agency Representative

**INITIAL DECISION**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

Michael Roney (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals on February 3, 2012, contesting the Department of Transportation’s (“Agency”) decision to remove him from his position as a Civil Engineering Technician. Agency filed its Answer on March 7, 2012. I was assigned this matter in August of 2013.

A Status Conference was convened on March 28, 2014. A Post Status Conference Order was issued on the March 31, 2014, which required the parties to address the issues presented in this matter. Agency’s brief was due on or before April 25, 2014. Employee’s brief was due on or before May 23, 2014. Agency timely submitted its brief on April 25, 2014. To date, Employee has failed to submit his brief in response to the Post Status Conference Order. As such, a Show Cause Order was issued on June 2, 2014, requiring Employee to provide a statement of good cause for failing to response to the Post Status Conference Order. Employee was given until June 9, 2014, to provide a statement of good cause for failing to response to the Post Status Conference Order. To date, Employee has failed to respond to both the Post Status Conference Order and the Show Cause Order. The record is now closed.

## 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 March 28, 2014. Subsequently, a Post Status Conference Order was issued, which required the parties to submit briefs on the issues in this case. Agency's brief was due on or before April 25, 2014. Employee's brief was due on or before May 23, 2014. Agency submitted its brief on April 25, 2014. The Post Status Conference Order warned both parties that failure to submit their brief could result in sanctions being imposed. To date, Employee has failed to submit his brief in response to the Post Status Conference Order. A Show Cause Order was issued on June 2, 2014, requiring Employee to provide a statement of good cause for failing to respond to the Post Status Conference Order. Employee was given until June 9, 2014, to provide a statement of good cause for failing to respond to the Post Status Conference Order. To date, Employee has failed to respond to both the Post Status Conference Order and the Show Cause Order.

In accordance with OEA Rule 621.3, 59 DCR 2129 (March 16, 2012), 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.<sup>1</sup> Failure of a party to prosecute or defend an appeal includes a failure to submit required documents after being provided with a deadline for such submission. Here, Employee has failed to respond to both the Post Status Conference Order and the Show Cause Order. Employee was warned in both orders that failure to respond may result in the imposition of sanctions. 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:

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Arien P. Cannon, Esq.  
Administrative Judge

<sup>1</sup> OEA Rule 621.3, 59 DCR 2129 (March 16, 2012).