

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. 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:)	
)	OEA Matter No.: 1601-0102-14
JUAN JOHNSON,)	
Employee)	
)	Date of Issuance: April 29, 2015 ¹
v.)	
)	
METROPOLITAN POLICE DEPARTMENT,)	
Agency)	
_____)	
Juan Johnson, Employee, <i>Pro se</i>)	Arien P. Cannon, Esq.
Brenda Wilmore, Esq., Agency Representative)	Administrative Judge

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

Juan Johnson (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals on July 23, 2014, contesting the Metropolitan Police Department’s (“Agency”) decision to suspend him for forty (40) days, and impose an additional five (5) days that were held in abeyance regarding a previous matter. Agency filed its Answer on August 18, 2014. I was assigned this matter on October 21, 2014.

An Order scheduling a telephonic Status Conference was issued on February 4, 2015. The telephonic Status Conference was scheduled for March 30, 2015, at 10:30 a.m. On March 30, 2015, at approximately 10:30 a.m., the Undersigned, with Agency’s counsel on the phone, called Employee in an attempt to convene a conference call. Employee did not answer the phone and a voice message was left by the Undersigned requesting that Employee call back so that a conference call could convene. To date, Employee has not called back regarding this Status Conference. A Show Cause Order was issued on April 13, 2015, which required Employee to

¹ An Initial Decision in this matter was issued by this Office on April 28, 2015, which inadvertently omitted the “Date of Issuance” in the caption and should be considered void. This Initial Decision is now being issued which bears the appropriate date this decision was issued. Other than the date of issuance, there are no differences between the two Decisions.

provide a statement of good cause for failure to make himself available for the March 30, 2015, telephonic Status Conference. To date, Employee has failed to respond to 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).

ANALYSIS AND CONCLUSION

A Status Conference was convened via telephone conference on March 30, 2015. A notice of the Status Conference was sent to both parties on February 4, 2015. Agency's representative was present on the phone at the Status Conference; however, Employee failed to make himself available for the telephone conference. Accordingly, Employee was issued a Show Cause Order to provide a statement of good cause for failing to participate in the telephonic Status Conference. Employee was given until April 21, 2015, to provide a statement of good cause for failing to participate in the telephonic Status Conference. To date, Employee has not responded to 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.² Failure of a party to prosecute or defend an appeal includes, but is not limited to, a failure to appear at a scheduled proceeding after receiving notice and failure to submit required documents after being provided a deadline to file such submission. Here, Employee failed to make himself available for the Status Conference and failed to respond to the Show Cause Order. Employee was warned in the Show Cause Order that a 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.
Administrative Judge

² OEA Rule 621.3, 59 DCR 2129 (March 16, 2012).