

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
HANSEL AGUILAR,)	OEA Matter No. 1601-0055-19A21
Employee)	
)	
v.)	Date of Issuance: November 18, 2020
)	
D.C. OFFICE OF POLICE COMPLAINTS,)	JOSEPH E. LIM, ESQ.
Agency)	Senior Administrative Judge
_____)	
Laura Nagel, Esq., Employee Representative)	
Bradford Seamon, Jr., Esq., Agency Representative)	

ADDENDUM DECISION ON ATTORNEY FEES¹

On June 13, 2019, Hansel Aguilar (“Employee”), an Investigator with the D.C. Office of Police Complaints (“OPC” or “Agency”), filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) challenging Agency’s final decision to terminate his employment for Failure to Follow Instructions and Conduct Prejudicial to the District Government. This matter was assigned to the undersigned Administrative Judge on or around September 17, 2019. After I held Evidentiary Hearings on February 18, 2020, and February 24, 2020, I issued an Initial Decision (“ID”) on July 20, 2020.² The ID reversed Employee’s termination. On October 9, 2020, Agency filed a Petition for Review to the Superior Court of the District of Columbia seeking review of the reversal of the termination.³ This appeal to the D.C. Superior Court is still pending.

On October 13, 2020, Employee filed a Motion for Attorney Fees in the amount of \$56,965.40 in attorney’s fees and \$205.97 in costs. Agency submitted its response to the Fee petition on October 27, 2020. The record is closed.

JURISDICTION

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

ISSUE

Whether Employee’s motion for attorney fees should be dismissed as being premature.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

1 This decision was issued during the District of Columbia’s Covid-19 State of Emergency.
2 *Hansel Aguilar v. DC Office of Police Complaints.*, OEA Matter No. 1601-0055-19 (July 20, 2020).
3 *DC Office of Police Complaints v. DC OEA & Hansel Aguilar*, Case Number 2020 CA 004294 P(MPA).

D.C. Official Code § 1-606.8 provides that: “[An Administrative Judge of this Office] may require payment by the agency of reasonable attorney fees if the appellant is the prevailing party and payment is warranted in the interest of justice.” *See also* OEA Rule 634.1, 59 D.C. Reg. 2129 (2012). In his motions related to attorney fees, Employee indicates his intention to seek attorney fees in this matter. Here, Agency has appealed the decision with the Superior Court of the District of Columbia. That petition is currently pending before the Court as Case No. 2020 CA 004294. Thus, at this point the question of whether Employee is a prevailing party has not been finally determined. Consequently, the motion for attorney fees is premature and must now be dismissed. However, the dismissal will be without prejudice, since Employee may yet become a prevailing party. If this occurs, he may then resubmit his motion for attorney fees.

ORDER

It is hereby **ORDERED** that Employee’s Motion for Attorney Fees is **DISMISSED without prejudice**.

JOSEPH E. LIM, ESQ.
Senior Administrative Judge