Notice: This decision may be formally revised before it is published in the *District of Columbia Register* and the Office of Employee Appeals' website. 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.: J-0027-25
EMPLOYEE, <sup>1</sup>	)	
Employee	)	
	)	Date of Issuance: May 30, 2025
V.	)	
	)	
UNIVERSITY OF THE	)	
DISTRICT OF COLUMBIA,	)	NATIYA CURTIS, Esq.
Agency	)	Administrative Judge
	)	
Employee, Pro se		
Anessa Abrams, Esq., Agency Representative		

## **INITIAL DECISION**

#### INTRODUCTION AND PROCEDURAL HISTORY

On February 27, 2025, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA" or "Office") contesting the University of the District of Columbia's ("Agency" or "UDC") decision to terminate him from his position as the Chief of Police, effective February 6, 2025. OEA issued a letter dated July 27, 2025, requesting that Agency file an Answer on or before March 29, 2025. Agency filed its Answer and Motion to Dismiss Employee's Petition for Appeal on April 3, 2025. Agency asserted in its Motion and Answer that this Office lacked jurisdiction over this matter because Employee was in probationary status at the time of his termination.<sup>2</sup>

This matter was assigned to the undersigned Administrative Judge ("AJ") on April 1, 2025. On April 4, 2025, I issued an Order for Briefs on Jurisdiction requiring Employee to address the jurisdiction issue raised by Agency in its Motion to Dismiss and Answer. Employee's brief was due by April 25, 2025. Agency's reply brief was due by May 16, 2025. Employee did not comply with the prescribed deadline. Accordingly, on May 2, 2025, the undersigned issued an Order for Statement of Good Cause to Employee for his failure to submit a response pursuant to the April 4, 2025, Order. Employee was required to submit his brief and statement to the undersigned and Agency's representative, by May 14, 2025. On May 15, 2025, Agency submitted its Brief on Jurisdiction and asserted that Employee's Petition for Appeal should be dismissed for his failure to submit his Brief on Jurisdiction and Statement of Good Cause. As of the date of this decision, Employee has not responded to the May 2, 2025, Order. The record is now closed.

<sup>&</sup>lt;sup>1</sup> Employee's name was removed from this decision for the purposes of publication on the Office of Employee Appeals' website.

<sup>&</sup>lt;sup>2</sup> Agency's Motion to Dismiss Employee's Petition for Appeal (April 3, 2025).

#### **JURISDICTION**

The jurisdiction of this Office has not been established.

#### **ISSUES**

Whether this Appeal should be dismissed for failure to prosecute.

# **BURDEN OF PROOF**

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for material issues of fact shall be by a preponderance of the evidence.

Preponderance of the evidence shall mean: That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 631.2 id. states:

For Appeals filed under § 604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

### ANALYSIS AND CONCLUSIONS OF LAW

OEA Rule 624.3, DCMR Ch. 600, et seq (December 27, 2021) grants an Administrative Judge the authority to "...dismiss the action or rule for the appellant" if a party fails to take reasonable steps to prosecute or defend an appeal. Failure of a party to prosecute or defend an appeal includes, but is not limited to, a failure to:

- (a) Appear at a scheduled proceeding after receiving notice (emphasis added);
- (b) Submit required documents after being provided with a deadline for such submission (emphasis added); or
- (c) Inform this Office of a change of address which results in correspondence being returned.

This Office has consistently held that a matter may be dismissed for failure to prosecute when a party fails to appear for scheduled proceeds or fails to submit required documents.<sup>3</sup> Here, Employee was warned in the Order for Statement of Good Cause issued on May 2, 2025, that failure to comply with the Order could result in sanctions, including dismissal. As of the date of this decision, Employee has not responded and provided a

<sup>&</sup>lt;sup>3</sup> See David Bailey Jr. v. Metropolitan Police Department, OEA Matter No. 1601-0007-16 (April 14, 2016).

written response to the May 2, 2025, Order. Employee's response was required to make an informed decision regarding the resolution of this matter. Accordingly, I find that Employee has not exercised the diligence expected of an appellant pursuing an appeal before this Office, and Employee's inaction presents a valid basis for dismissing this matter. Consequently, I further find that this matter should be dismissed for failure to prosecute.

# <u>ORDER</u>

It is hereby **ORDERED** that this matter be **DISMISSED** for Employee's failure to prosecute his Appeal.

FOR THE OFFICE:

/s/ Natiya Curtis
Natiya Curtis Esq.
Administrative Judge