

STATE PERSONNEL BOARD, STATE OF COLORADO
Case No. 2000B114

ORDER OF THE STATE PERSONNEL BOARD ON REMAND

PERRY VENARD,

Complainant,

vs.

DEPARTMENT OF CORRECTIONS,
ARKANSAS VALLEY CORRECTIONAL FACILITY,

Respondent.

The State Personnel Board (the "Board") met in public session on Tuesday, August 19, 2003, to reconsider this case on remand from the May 8, 2003 decision of the Colorado Court of Appeals, Case No. 01CA2065, that vacated the Board's original final order and remanded the case for reconsideration with instructions. The mandate of the Court of Appeals case issued on July 8, 2003. During this public session, the Board considered the record on appeal, including the opinion of the Court of Appeals, and the following:

1. Initial Decision of the Administrative Law Judge
2. Motion for New Hearing or Remand and the Taking of Supplemental Testimony
3. Motion in Opposition to Complainant's Request for a New Trial or Retaking of Testimony
4. Order of the State Personnel Board - March 22, 2001
5. Motion to Supplement Record
6. Order of the State Personnel Board - May 15, 2001
7. Motion for Disqualification of Linda Siderius
8. Order of the State Personnel Board - June 26, 2001
9. Motion to Strike, Opposition to Request to File Out of Time and Request for Expedited Ruling
10. Order of the State Personnel Board - August 23, 2001
11. Motion for Permission to File Reply Brief in the event Respondents' [sic] Brief is Accepted
12. Order of the State Personnel Board - September 25, 2001
13. Order Vacated and Case Remanded with Directions - May 8, 2003

14. Renewed Motion for Remand to Administrative Law Judge for New Hearing and Taking of Testimony
15. Mandate from Court of Appeals

Pursuant to the direction of the Colorado Court of Appeals, the Board reconsidered Complainant's motion for a new hearing or remand and the taking of supplemental testimony, originally filed on February 28, 2001, and also reconsidered Complainant's motion to supplement the record, originally filed on April 18, 2001. The Board voted to deny both motions made by Complainant.

This order represents the affirmative vote of the following Board members: Ms. Garcia, Mr. Zakhem, and Ms. Lottner. Ms. Salkind voted in opposition to the motion. Ms. Siderius was absent and did not participate.

In a separate vote, the Board voted to affirm and to ratify the Order of the State Personnel Board dated September 25, 2001, adopting the findings of fact and conclusions of law of the Administrative Law Judge in the Initial Decision of the Administrative Law Judge.

This order represents the affirmative vote of the following Board members: Ms. Garcia, Mr. Zakhem, and Ms. Lottner. Ms. Salkind voted in opposition to the motion. Ms. Siderius was absent and did not participate.

Dated this _____ day of
August, 2003.

Joyce Lottner
Board Chair
State Personnel Board
1120 Lincoln Street, Suite 1420
Denver, Colorado 80203

NOTICE OF APPEAL

Each party has the following rights:

1. To abide by this decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4-106(11), C.R.S. (2001), as provided in Section 24-50-125.4(3), C.R.S. (2002).

In the event the decision is appealed, the Board requests that a copy of the Notice of Appeal filed with the Court of Appeals also be filed with the State Personnel Board at: 1120 Lincoln Street, Suite 1420, Denver, CO 80203. Such will aide in the timely preparation of the record.

CERTIFICATE OF MAILING

This is to certify that on the _____ day of August, 2003, I placed true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD ON REMAND** in the United States mail, postage prepaid, addressed as follows:

William S. Finger, Esq.
Frank & Finger, P.C.
29025-D Upper Bear Creek Road
P.O. Box 1477
Evergreen, Colorado 80437-1477

and in the interagency mail, addressed as follows:

Vincent R. White
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1525 Sherman Street, 5th Floor
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