

STATE PERSONNEL BOARD, STATE OF COLORADO
Case No. 2011B084

ORDER OF THE STATE PERSONNEL BOARD

WAYNE WILSON,
Complainant,

vs.

DEPARTMENT OF HUMAN SERVICES,
Respondent.

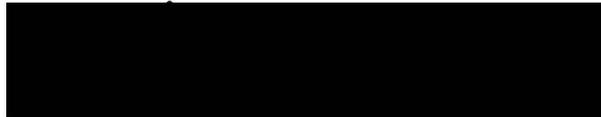
This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled public session held on February 21, 2012. During this public session, the Board considered the record on appeal, including but not limited to:

1. Order Granting Motion to Dismiss and/or for Summary Judgment;
2. Complainant's Opening Brief;
3. Opening Brief (Cross- Appeal);
4. Complainant's Answer Brief;
5. Answer Brief;
6. Reply Brief;
7. Exhibit 5 (Complainant's October 31, 2010 Request for Reasonable Accommodation).

Based upon the Board's review and consideration,

IT IS HEREBY ORDERED that the Order Granting Motion to Dismiss and/or for Summary Judgment is **REVERSED**. The Board finds that there are genuine issues of material fact, including, but not limited to, the issues of material fact relating to the essential functions of Complainant's job, whether reasonable accommodation could have been made to Complainant's job or another job without demotion, the extent to which the interactive process did or did not occur, and the timeliness of Complainant's appeal which includes whether constructive discharge applies to this case and if so, when constructive discharge occurred. Therefore, the matter is remanded to the Administrative Law Judge to be set for hearing on the merits of the case.

Dated this 28 day
Of February, 2012.



Rich Djokic, Board Chair
State Personnel Board
633 17th Street, Suite 1320
Denver, CO 80202-3604

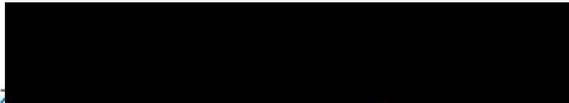
CERTIFICATE OF MAILING

This is to certify that on the 28th day of February, 2012, I electronically served a true copy of the foregoing **ORDER OF THE STATE PERSONNEL BOARD** as follows:

Mark Schwane Esq.



Joseph Haughain, Senior A.A.G.



Andrea C. Woods