

STATE PERSONNEL BOARD, STATE OF COLORADO
Case No. 2016B087(C)

ORDER OF THE STATE PERSONNEL BOARD

DAVID SCHERBARTH
Complainant,

vs.

DEPARTMENT OF CORRECTIONS, STERLING CORRECTIONAL FACILITY
Respondent.

This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled meeting held on August 15, 2017. During this public session, the Board considered the record on appeal, including but not limited to:


1. Initial Decision of the Administrative Law Judge;
2. Respondent's Opening Brief;
3. Complainant's Opening Brief;
4. Complainant's Response to Respondent's Opening Brief;
5. Respondent's Answer Brief;
6. Respondent's Reply Brief;
7. Complainant's Reply Brief in Support of His Appeal on the Issue of Attorney's Fees.

Based upon the Board's review and consideration,

IT IS HEREBY ORDERED that the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge are **ADOPTED**. Respondent's disciplinary action is rescinded, Complainant is restored to his former position as Associate Warden at the Sterling Correctional Facility at the compensation level he would now hold had he not been demoted; Complainant will be compensated for lost back pay and benefits and Respondent shall remove Complainant's performance evaluation for the period of April 1, 2016 through June 14, 2016 from all Department of Corrections files.

IT IS FURTHER ORDERED that the matter shall be remanded to the Administrative Law Judge to determine the Complainant's monetary award of back pay and benefits.

Dated this 16th day
Of August, 2017.



Neil Peck, Board Chair
State Personnel Board
1525 Sherman Street, 4th Floor
Denver, CO 80203

NOTICE OF APPEAL

1. To abide by the decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 49 days pursuant to Section 24-50-125.4(3), C.R.S., in the method described at Section 24-4-106(11), C.R.S., and in accordance with applicable Colorado Appellate Rules.

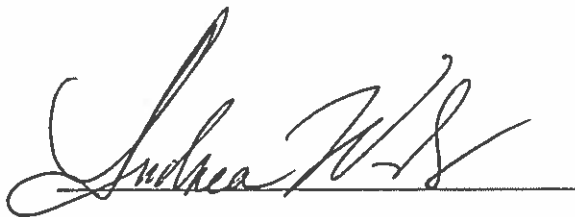
In the event this decision is appealed, the party filing the appeal with the Court of Appeals must name in the appeal and serve such appeal upon the State Personnel Board and all other parties who have appeared as parties to this action. See Section 24-4-106(11)(d), C.R.S. The State Personnel Board can be served at: 1525 Sherman Street, 4th Floor, Denver, Colorado 80203.

CERTIFICATE OF MAILING

This is to certify that on the 16th day of August 2017, I electronically served a true copy of the foregoing ORDER OF THE STATE PERSONNEL BOARD as follows:

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A handwritten signature in cursive script, appearing to read "Katherine Vorlage", written over a horizontal line.