

**BEFORE THE
MERIT SYSTEM PROTECTION BOARD
FOR
MONTGOMERY COUNTY, MARYLAND**

IN THE MATTER OF

████████████████████,

APPELLANT,

AND

**MONTGOMERY COUNTY
GOVERNMENT,**

EMPLOYER

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CASE NO. 19-17

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ORDER OF DISMISSAL

████████████████████ (Appellant), an employee of the Department of Correction and Rehabilitation, filed an appeal of a five day suspension with the Merit System Protection Board (Board or MSPB) on January 22, 2019. By letter dated February 4, 2019, Appellant was advised that his Prehearing Submission was due on or before April 1, 2019. Having received no prehearing submission, on April 9, 2019, the Board wrote to Appellant asking him to promptly file his Prehearing Submission or advise the Board in writing if he no longer wished to pursue his appeal. The letter also advised him that the Board may dismiss an appeal if the appellant fails to prosecute the appeal or comply with established appeal procedures. Montgomery County Personnel Regulations (MCPR), § 35-7(b). Under MCPR § 35-8(c), Appellant had fifteen (15) business days to comply with the Board’s request.

On May 1, 2019, the County filed a Motion to Dismiss noting that Appellant had not filed any response within 15 business days and that the Board has authority to dismiss the appeal pursuant to MCPR § 35-7(b).

Having received no response from Appellant to the requests for documentation or the County’s Motion to Dismiss, the Board issued a Show Cause Order on May 23, 2019. The order required Appellant to provide, by June 10, 2019, a statement of such good cause as exists for why this case should not be dismissed. Appellant has not responded to the Show Cause Order even

though it advised Appellant that absent a finding by the Board of good cause for his failure, the Board would dismiss his appeal.

Thus, because Appellant has not provided the prehearing submission, or responded to requests from the Board and a Show Cause Order, the Board shall dismiss this matter for failure to comply with established appeal procedures and due to Appellant's failure to prosecute his case. MCPR § 35-7(b); MSPB Case No. 18-26 (2018); MSPB Case No. 17-06 (2017); MSPB Case No. 15-09 (2015).

Accordingly, it is hereby **ORDERED** that the appeal in Case No. 19-17 be and hereby is **DISMISSED**.

If any party disagrees with the decision of the Merit System Protection Board, pursuant to Montgomery County Code, §33-15, *Judicial review and enforcement*, and MCPR, §35-18, *Appeals to court of MSPB decisions*, an appeal may be filed with the Circuit Court for Montgomery County, Maryland County, Maryland in the manner prescribed under the Maryland Rules, Chapter 200, Rule 7-202.

For the Board
June 18, 2019



Michael J. Kator
Chair