THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
ANITA STATON	)	OEA Matter No. 1601-0152-09
Employee	)	
	)	Date of Issuance: July 16, 2012
	)	
METROPOLITAN POLICE DEPARTMENT	)	
Agency	)	
	)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Anita Staton ("Employee") worked as a police officer with the D.C. Metropolitan Police Department ("Agency/MPD"). She received a final notice of adverse action on June 2, 2008, charging her with being involved in an act which constituted a crime whether or not a court record reflects a conviction;[1] conduct unbecoming of an officer;[2] and any conduct not specifically set forth in this order, which is prejudicial to the reputation and good order of the police force, or involving failure to obey, or properly observe any of the rules, regulations, and

[1]According to Agency, Employee was involved in a vehicle accident in which she left the scene without stopping to investigate or making her identity known. On November 30, 2007, the Attorney General found that probable cause existed and an arrest warrant was issued. The Attorney General of the District of Columbia charged Employee with leaving after a collision or property damage. Metropolitan Police Department General Order 120.21, Attachment A, Part A-7 governs this charge. *Agency's Brief*, p. 3 (July 8, 2010).

[2] Agency charged Employee with conduct unbecoming of an officer because, according to Agency, she brought discredit upon herself and the Department when she was involved in an accident while operating a marked Agency vehicle and leaving the scene without investigating or making her identity known. *Id.*

orders relating to the discipline and performance of the force.[3] The charges arose from Employee's alleged vehicle accident on June 21, 2006, with Ms. Anne Chapman ("complainant") on the 600 block of Virginia Avenue, SE, Washington, D.C. After conducting an investigation of the incident, Agency proposed the penalty of termination. Subsequently, the adverse action panel found Employee guilty on all three charges on May 2, 2008, but it reduced the proposed penalty to a sixty-day suspension. Employee was informed on May 27, 2009, that her suspension would start the week of May 31, 2009.

On July 6, 2009, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). She argued that Agency's action was not in accordance with District laws and regulations, and it was not supported by substantial evidence. Employee asserted that Agency did not complete the misconduct disciplinary investigation within 15 days, as required for motor vehicle crash investigations;[4] it did not complete the administrative investigations of serious misconduct within 90 calendar days of receiving the complaint, criminal declination, or conclusion of a criminal prosecution;[5] and Agency did not complete a crash report on a PD Form 10 in which a District or government-owned motor vehicle or property was involved.[6] Therefore,

[3] This charge stems from Employee's failure to submit a completed PD 775 (Vehicle Inspection and Daily Radio Run Log). She failed to document an assignment that she was given by the dispatcher and failed to report a vehicle accident in which she was allegedly involved. *Id.*

[4]Metropolitan Police Department General Orders 201.22 (Fire and Police Disciplinary Action Procedure Act of 2004), Part III.C, states that all use of force, misconduct and disciplinary investigations shall be completed within thirty calendar days, with the exception of motor vehicle crash investigations which are to be completed in fifteen calendar days. Employee stated that the investigative packet completed by Agent Dwayne Jackson was submitted on January 10, 2008, which was 92 days after Employee was acquitted on October 10, 2007. *Petition for Appeal*, p. 2, (July 6, 2009).

[5]Metropolitan Police Department General Order 120.23 (Serious Misconduct Investigations), Part V.F.3.a, states that the Director or Office of Internal Affairs shall be responsible for completing any administrative investigations of serious misconduct, absent special circumstances, within 90 days of receiving the complaint, criminal declination, or conclusion of a criminal prosecution where applicable. Employee stated that she was found not guilty of leaving after colliding on October 10, 2007, as the judge found the evidence was not substantial enough to constitute proof beyond a reasonable doubt. Agent Jackson did not submit the final adverse action notice until January 10, 2008, which was 92 days after the conclusion of the trial. *Id.* at 3.

[6]Metropolitan Police Department General Order 401.03 (Traffic Crash Reports), Part V.a.2.b, states a traffic crash report shall be prepared on PD Form 10, regardless of damage when District or Government-owned motor vehicle or property is involved, including a motor vehicle of a motor governmental corporation. Employee provided that

she requested that the allegation itself, along with any subsequent actions, be expunged from her record and that she be restored the back pay and benefits she lost as a result of having served the sixty-day suspension.[7]

Agency responded on August 14, 2009, arguing that Employee's actions violated General Orders 120.21. Therefore, the penalty of a 60-day suspension was appropriate under the Table of Offenses and Penalties. Agency contended that there was substantial evidence to support its charges. Moreover, there were witnesses to corroborate its finding. Hence, Agency contended that Employee was suspended for cause in accordance with the Department's General Orders.[8]

Before the Administrative Judge ("AJ") issued his Initial Decision on this matter, he requested briefs on the issues from both parties. Employee expanded on the arguments made in her Petition for Appeal by stating that none of the eyewitnesses of the incident testified at the Trial Board hearing. She further alleged that the damage to her car did not show markings from an accident; only the standard dings were present.[9] She also argued that Agency committed harmful procedural error by not presenting eye witness testimony; thereby, depriving her of her right to confront her accusers. Finally, Employee explained that Agency failed to prove that she violated any laws, regulations, or general orders.[10]

Employee offered that according to D.C. Official Code § 5-1031, as well as the MPD General Orders, an adverse action cannot be imposed on an MPD employee more than 90 days

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Officer Edward Roach took photographs of scout car 174, the car involved in the accident with Ms. Chapman. Sergeant Merrick concluded there were minor scratches on all bumpers but no accident report was completed. *Id.* at 3.

[7] *Id.*

[8] *Agency's Prehearing Statement,* pg. 4 (August 14, 2009).

[9] Agent Jackson, Sergeant Merrick, Sergeant Mark Robinson, Sergeant Daren Jones, and fleet management employee, Daniel Ramos, all testified that they did not see any out of the ordinary or substantial markings on scout car 174 aside from the normal dings that all of the scout cars had. *Findings of Fact and Conclusions of Law*, p. 7-13 (July 8, 2010).

[10] *Initial Decision*, p. 2 (December 17, 2010).

after the date the agency knew or should have known of the incident or within 90 days from the date the agency knew or should have known if the act or occurrence allegedly constituting cause is the subject of a criminal investigation by the MPD.[11] Employee believed that the incident was reported to the Internal Affairs Division on June 21, 2006, by Ms. Chapman. Therefore, Agency was on notice of the incident on that date and had 90 days from that date to initiate an adverse action against her.[12] Relying on *District of Columbia Fire and Medical Services Department v. District of Columbia Office of Employee Appeals*, 986 A.2d 419 (D.C. 2010), Employee provided that the D.C. Court of Appeals clearly explained that the reasoning for the provision was to ensure that Agency would not prolong processing an adverse action and keep the employee in suspense of their fate.[13] Employee contended that Agency violated the provision by proposing an adverse action on February 20, 2008, for an alleged incident that occurred on June 21, 2006.[14]

Agency responded to Employee's 90-day argument by referencing the Collective Bargaining Agreement in which the service requirement for the final adverse decision is governed by a "55-day" rule. This rule stated that an employee should be given written notice of the agency's decision and the reasons therefore within 55 business days after the date the employee is notified in writing of the charges or the date the employee elects to have a departmental hearing. Expanding further, the rule explained that if the employee is granted a continuance of the hearing, the 55 day limit is extended by the length of the delay.[15]

Agency maintained that after Employee was notified of the proposed notice of adverse

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[11] *Petitioner's Brief in Support of her Petition to Reverse her 60 Day Suspension,* p. 9-10 (December 20, 2010).
[12] Employee provides four instances when Agency was on notice. They were on June 21, 2006, when the alleged event was reported; July 6, 2006, when Agency revoked Employee's police powers; October, 2006, when Agency concluded its preliminary investigation; and October 10, 2007 at the conclusion of Employee's trial. *Id. at 10.*
[13] *Id.*
[14] *Id. at* 11.
[15] *Agency's Brief,* p. 5 (July 8, 2010).

action, she requested a hearing and thereafter, received a continuance. Therefore, the new date of the hearing was May 2, 2008. Because the time between the original hearing date and the rescheduled hearing date is excluded from the 55-day calculation, Agency contended that Employee was timely served the final adverse action decision on June 2, 2008.[16]

On December 17, 2010, the AJ issued his Initial Decision. He held that Agency did not have substantial evidence to support the adverse action of suspension imposed on Employee. Agency's witnesses were unable to adequately establish the damage to the complainant's vehicle or the scout car. Moreover, Agency's investigation was not corroborated because its witnesses were not present at the trial. Additionally, the AJ reasoned that Agency relied on hearsay statements that were inadmissible even within an administrative proceeding.[17]

The AJ also found Agency committed harmful procedural error by not commencing its adverse action against Employee within the statutory timeframe. He noted that Agency did not address the 90-day rule provided by D.C. Official Code § 5-1031(a). This section of the Code provides that Agency was to commence any adverse action against Employee within 90 business days of when they knew or should have known of the act. The AJ held that Agency was aware of the alleged incident on June 21, 2006. Agency failed, however, to commence the adverse action within 90 days from that date. For this reason as well, the AJ overturned its action against Employee.[18]

On January 21, 2011, Agency filed a Petition for Review with the OEA Board. It argued

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[16] *Id.*

[17]The Trial Board heard testimony about the alleged June 21, 2006, vehicular accident from Agency's investigators but not from the complainant or the eyewitness identified in the investigative reports. There were no sworn or signed eyewitness statements presented. Lt. Merrick admitted that he never actually spoke to the eyewitness. Sergeant Robinson could not tell whether the minor dings to the patrol car corresponded with that of the complainant's car because he never saw the complainant's car, and he also could not tell if Employee's car had been involved in an accident. Similarly, Sergeant Jones admitted that he never viewed the complainant's car for signs of damage. *Initial Decision*, p. 6-7 (December 17, 2010).

[18]*Id.*, at 10.

that the AJ erred by allowing Employee to raise the 90-day rule because the issues relating to the 90-day rule were not presented at the Departmental hearing. Accordingly, Agency contends that Employee failed to preserve this as an issue. Agency went on to argue that because Employee failed to preserve this as an issue, the AJ could not consider it *de novo*. In doing so, Agency believes that the AJ erred in applying the standard of review.[19]

Moreover, Agency asserted that the Initial Decision was not based on substantial evidence. Specifically, Agency contended that the AJ failed to consider the sworn statement of the complainant contained in the September 25, 2007, criminal trial transcript, as well as its findings of fact and conclusions from the Departmental hearing. It provided that during the Departmental hearing, Employee's counsel did not dispute that the testimony provided by the witnesses during the criminal trial should not be considered. Agency explained that the sworn testimony of the complainant at the criminal trial constituted substantial evidence of the hit and run accident. During the departmental hearing, Ms. Chapman was an unavailable declarant, but Agency provided that her unavailability fell under the hearsay exception.[20]

Employee filed her response to Agency's Petition for Review on February 25, 2011. She provided that Agency never disputed that it violated the 90-day rule, which is clear from the record. It only provided an erroneous argument pertaining to the AJ's analysis of the 90-day rule. Employee contends that the 90-day rule could not be waived, as this would undermine the purpose of the rule which is to provide certainty.[21]

Further, Employee provided that the AJ went through the testimony of the officers who testified before the Trial Board and correctly noted that none of their statements established that

[19]Agency provided that in cases where a Departmental hearing has been held, any further appeal shall be based solely on the record established in the Departmental hearing. *Petition for Review and Supporting Memorandum of Points and Authorities*, p. 4 (January 21, 2011).
[20]*Id.*, at 5-7.
[21] *Response to Petition for Review*, p. 6 (February 25, 2011).

the vehicle which she was driving was involved in any accident, nor could the officers establish that the complaint's vehicle was involved in an accident. Employee noted that the hearsay exception is only applicable if the witness is not available. According to Employee, Agency failed to provide a proper explanation for why the complainant could not testify.[22] Further, Mr. Davis, the other witness to the alleged accident, also failed to testify at the Trial Board hearing, without any claim or evidence for his failure to testify or be subject to cross examination.[23]

Employee also found Agency's arguments to be irrelevant and misleading because they pertained to statements made during the criminal trial, and the Trial Board did not consider the criminal trial testimony. Contrary to the Agency's findings, the record does not support its claim that the Trial Board considered the criminal trial testimony of the witnesses in rendering its decision that Employee engaged in the conduct charged. Therefore, she requested that the OEA Board uphold the AJ's Initial Decision.[24]

Issues not raised on appeal

This Board believes that the AJ did not err in considering Employee's argument regarding the 90-day rule. Agency maintains that Employee did not offer the 90-day rule argument at the Departmental hearing and therefore, should not have brought it up on appeal. However, when Agency became aware that Employee was going to make the 90-day rule an issue, Agency did nothing. Agency did not argue the inapplicability of the rule nor did it offer any explanation as to how it complied with the rule or was excused from complying with it. Instead, Agency countered with a provision found in the collective bargaining agreement. Such

[22] As found by the AJ, the only explanation provided for the complainant's failure to appear at the hearing was that she resided in Arizona. No evidence was submitted to corroborate such a claim, such as an address, telephone number or affidavit, nor was it explained why she could not appear to provide critical evidence before the Trial Board at the Agency's expense. *Id.* at 7.
[23] Employee rationalized that the significance of this failure is underscored by Agent Merrick's testimony wherein he stated that this witness played a vital role in his finding that Officer Staton engaged in the conduct with which she was charged. *Id.*, 7-8.
[24] *Id.*, 9-10.

provision was not even raised by Employee. Instead, we believe that the AJ's consideration of this issue is supported by the Court's ruling in *District of Columbia Metropolitan Police Department v. Pinkard*, 801 A.2d 86 (D.C. 2002), wherein this Office's review of the decision of the Agency's adverse action panel is limited to determining, *inter alia*, whether there was harmful procedural error.

90-day rule

D.C. Official Code § 5-1031(a), provides that:

> *No corrective or adverse action against any sworn member* or civilian member or civilian employee of the Fire and Emergency Medical Services Department or Metropolitan Police Department *shall be commenced more than 90 days*, not including Saturdays, Sundays, or legal holidays, *after the date that* the Fire and Emergency Medical Services Department or *the Metropolitan Police Department knew or should have known of the act* or occurrence allegedly constituting cause. [Emphasis added.]

Accordingly, the 90-day rule is procedurally mandatory in nature.[25]

If there is any discrepancy as to the mandatory nature of the 90-day rule provision, *District of Columbia Fire and Emergency Medical Services Department v. District of Columbia Office of Employee Appeals*, 986 A.2d 419 (D.C. 2010), puts it to rest by affirming the OEA decision to reverse the adverse action because Agency took action after 90 days of when it knew or should have known of the incident constituting cause. The Court noted that the goal of the 90-day rule would be honored "in all but the most unusual circumstances."[26]

Moreover, OEA Rule 631.3 provides that:

> Notwithstanding any other provision of these rules, the Office shall not

[25]Agency argued that the 55-day rule is the regulation that the AJ should have considered when making his ruling, instead of addressing the 90-day rule. However, the 55-day rule is found in Agency's Collective Bargaining Agreement while the 90-day rule is provided as a mandatory requirement of the D.C. Official Code. As the Court held in *Moore v. Gaither*, 767 A.2d 278, 284 (D.C. 2001), regulations may properly govern only those matters that the statute authorizes it to govern; statutory coverage thus necessarily limits, and trumps, any purported broader coverage in the regulation.

[26]*District of Columbia Fire and Emergency Medical Services Department v. District of Columbia Office of Employee Appeals*, 986 A.2d 419, 425 (D.C. 2010).

> reverse an agency's action for error in the application of its rules, regulations, or policies if the agency can demonstrate that the error was harmless. Harmless error shall mean an error in the application of the agency's procedures, which did not cause substantial harm or prejudice to the employee's rights and did not significantly affect the agency's final decision to take the action.

Following this rule, Agency would have to prove Employee would not be prejudiced if she was not allowed to address the 90-day rule.

It is our position that Agency could not show harmless error or that Employee's rights were not prejudiced. In this case the Agency had four distinct dates in which they were on notice of the incident which allegedly constituted cause for adverse action — on June 21, 2006, when the alleged event was reported; on July 6, 2006, when Employee's police powers were revoked; in October 2006, when MPD concluded its preliminary investigation; and on October 10, 2007, when Employee was acquitted of the criminal charges. Ninety days from June 21, 2006 was October 30, 2006; ninety days from July 6, 2006 was November 13, 2006; and ninety days from October 2006 was within February 2007. If either one of the latter three dates were used as the date constituting cause, Agency would still be in violation because the proposed notice of adverse action was not served to Employee until February, 20, 2008. If October 10, 2007, the date Employee was acquitted of her criminal charges, was the date used to trigger the ninety-day period, the time frame would have lapsed on February 26, 2008. Although the adverse action was served six days before February 26, 2008, Agency knew or should have known of the act constituting cause on June 21, 2006, when Ms. Chapman reported the alleged accident to the Internal Affairs Department. However, the adverse action notice was not served until February 20, 2008 which was one day short of being a year and eight months after Agency knew of the act. Thus, Agency is in violation of the 90-day rule, and the AJ did not err in his decision.

Substantial Evidence

As for Agency's argument that the AJ's findings were not based on substantial evidence, this contention is unsupported. Substantial evidence is defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[27] Agency's record is void of evidence of cause against Employee. There is a great deal of uncorroborated hearsay and contradictory statements by Agency's investigators.

The record is replete of Agency's witness' statements, showing clear discrepancies as to whether Employee actually hit complainant's car. Lt. Merrick, one of Agency's investigators, spoke with Ms. Chapman only on the phone and never spoke with the witness Ron Davis.[28] When viewing the scout car he did not notice any transfer paint nor did he notice any indicators of a hard hit on Ms. Chapman's car.[29] Jackson never viewed the scout car. He only reviewed photos and from the photos could not tell if the scratches or marks were new or old.[30] Sgt. Robinson never saw Ms. Chapman's car and could not tell if Employee's car was involved in an accident. Sgt. Jones admitted that he could not remember if he viewed Ms. Chapman's car for damage. When he viewed the scout car for damage he could not see anything that looked any different from the normal scuffs which were customary of all the scout cars. He also noted that Ms. Chapman had relocated to Arizona.[31] The AJ used what was clearly on the record to support his judgment. The record shows great inconsistencies; thus, the AJ's ruling was based on substantial evidence.

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[27] *Ferreira v. District of Columbia Department of Employment Services*, 667 A.2d 310, 312 (D.C. 1995) (quoting *James v. District of Columbia Department of Employment Services*, 636 A.2d 395, 397 (D.C. 1993).
[28] *Trial Board Transcript*, p. 25 (May 2, 2008).
[29] *Id.*, at 18.
[30] *Id.*, at 27.
[31] *Id.*, at 112-14.

Hearsay Statements

Agency argues that the AJ did not consider the witness' sworn testimony at the criminal trial. The absence of such, led him to find that Agency had only uncorroborated hearsay statements to support their case. This Board has consistently held that an AJ's credibility determinations will not be questioned by the OEA Board.[32] In accordance with *Raphael v. Okyiri*, 740 A.2d 935, 945 (D.C. 1999) (quoting *Kennedy v. District of Columbia*, 654 A.2d 847, 854 (D.C.1994); *Washington Metropolitan Area Transit Authority v. District of Columbia Department of Employment Services*, 683 A.2d 470, 477 (D.C.1996); *Kennedy, supra*, 654 A.2d at 856; *see also Metropolitan Police Department v. Baker*, 564 A.2d 1155, 1159 (D.C.1989), due deference must be accorded to the Administrative Judge's credibility determinations, both by the OEA, and by a reviewing court. *Raphael v. Okyiri*, 740 A.2d 935, 945 (D.C. 1999) (quoting *Baker*, supra, 564 A.2d at 1159 (citations omitted), states that the Administrative Judge's findings of fact are binding at all subsequent levels of review unless they are unsupported by substantial evidence. This is true even if the record also contains substantial evidence to the contrary.

Agency claims that the testimony of Ms. Chapman and Mr. Davis were considered by the Trial Board, thus making it sworn testimony that is admissible under the hearsay exception. Agency further claimed that the record showed that the Trial Board depended on the credibility of the investigator's testimony to gauge the strength of the testimony given by the absent witnesses during the criminal trial.[33] However, aside from Agency's claim, there is no evidence

[32] *Ernest H. Taylor v. D.C. Fire and Emergency Medical Services,* OEA Matter No. 1601-0101-02, *Opinions and Orders on Petition for Review* (July 31, 2007); *Larry L. Corbett v. D.C. Department of Corrections,* OEA Matter No. 1601-0211-98, *Opinion and Order on Petition for Review* (September, 5, 2007); and *Paul D. Holmes v. D.C. Metropolitan Police Department,* OEA Matter No. 1601-0014-07, *Opinion and Order on Petition for Review* (November 23, 2009).
[33] *Response to Petition for Review*, p. 10-11 (February 25, 2011).

showing that the sworn criminal trial statements of the witnesses were considered, thus making the investigator's recollection of the witnesses testimonies unsworn hearsay statements. In *Mitchell v. District of Columbia*, 736 A.2d 228 (D.C. 1999) (quoting *Jadallah v. District of Columbia Department of Employment Services.,* 476 A.2d 671, 676 (D.C. 1984), it is well-established that the technical rules of evidence applicable to trial court cases do not govern agency proceedings and that hearsay evidence, if it has probative value, is admissible at administrative hearings. *Mitchell* also states that an agency decision is not supported by substantial evidence where it relies on hearsay to resolve conflicted testimony. The court held that:

> It is one thing to hold that hearsay evidence is admissible at agency hearings, but quite another thing to say that the direct sworn testimony of a witness on a crucial fact can be effectively refuted by hearsay, i.e., the statements of persons not produced as witnesses - and hence not subject to cross-examination - when the party relying on such statements is in a position to call the declarants to the stand.[34]

The record reflects that Agency witnesses were not offered for the Trial Board hearing. Ms. Chapman allegedly relocated to Arizona, and Mr. Davis' absence was not accounted for by Agency. These were the only two witnesses who saw the alleged accident. Therefore, it was imperative for Agency to have produced them as witnesses. The Court in *Selk v. District of Columbia Dept. of Employment Services*, 497 A.2d 1056, 1059 (D.C. 1985) (quoting *General Railway Signal Co. v. District Unemployment Compensation Board,* 354 A. 2d 529, 532 (D.C. 1976), provided that testimony that is not subject to cross-examination cannot be considered "reliable, probative and substantial evidence."

Moreover, the Court in *Compton v. D.C. Board of Psychology*, 858 A.2d 470, 477 (D.C. 2004), offers factors to consider when evaluating hearsay reliability. These factors include

[34] *Mitchell v. District of Columbia*, 736 A.2d 228 (D.C. 1999) (quoting *Jadallah v. District of Columbia Dep't of Employment Servs.,* 476 A.2d 671, 676 (D.C. 1984).

whether the declarant is biased; whether the testimony is corroborated; whether the hearsay statement is contradicted by direct testimony; whether the declarant is available to testify and be cross-examined; and whether the hearsay statements were signed or sworn.[35] When these factors are applied to the facts at hand it is clear that neither Ms. Chapman nor Mr. Davis were available for cross-examination; the testimony of Agency investigators and the witnesses' hearsay statements are in direct contradiction of each other; and the hearsay statements used are not sworn or corroborated. All of these factors combined renders the evidence unreliable.

Conclusion

In accordance with *District of Columbia Metropolitan Police Dept. v. Pinkard*, 801 A.2d 86 (D.C. 2002), and *Stokes v. District of Columbia*, 502 A.2d 1006, 1009 (D.C. 1985), OEA will uphold an agency action unless it is unsupported by substantial evidence; there was harmful procedural error; or it was not in accordance with law or applicable regulations. Based on the aforementioned, there was an error in judgment by Agency. Agency's suspension of Employee was incorrectly commenced based on its violation of the D.C. Official Code § 5-1031(a). Agency also failed to provide reliable witness testimony to support their findings during the Departmental hearing. For these reasons, we find that the AJ's findings were based on substantial evidence. Accordingly, we deny Agency's Petition for Review.

[35] *Compton v. D.C. Board of Psychology*, 858 A.2d 470, 477 (D.C. 2004).

ORDER

Accordingly, it is hereby **ORDERED** that Agency's Petition for Review is **DENIED**.

FOR THE BOARD:

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Clarence Labor, Chair

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Barbara D. Morgan

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Richard F. Johns

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.