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**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
DIANE GUSTUS,	)	
Employee	)	OEA Matter No. 1601-0025-08-R-10
	)	
v.	)	Date of Issuance: March 22, 2010
	)	
OFFICE OF THE CHIEF	)	
FINANCIAL OFFICER,	)	
Agency	)	ERIC T. ROBINSON, Esq.
	)	Administrative Judge
_____	)	
Jean Kuei, Esq., and A. Scott Bolden, Esq., Employee Representatives		
Clarene P. Martin, Esq. Agency Representative		

**INITIAL DECISION ON REMAND**

INTRODUCTION AND PROCEDURAL BACKGROUND

On December 20, 2007, Diane Gustus (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA”) contesting the Office of the Chief Financial Officer (“Agency”) adverse action of removing her from service. After reviewing the documents of record, I ordered the parties to submit prehearing statements and to appear for a Prehearing conference in this matter. At that time, neither Employee nor her then counsel appeared as ordered. Consequently, on March 31, 2008, I issued an Initial Decision wherein I found in favor of the Agency due to Employee’s failure to adequately prosecute her petition for appeal.

Subsequently, Employee obtained new legal counsel and filed a petition for review with the Board of the OEA. She argued that new and material evidence was available and that she should be heard on the merits of her appeal. The Board of the OEA agreed and in an Opinion and Order on Petition for Review dated January 25, 2010, remanded that matter back to me so that I may consider this matter on its merits. Consequently, a prehearing conference was held on February 26, 2010. As part of its preparation for the scheduled prehearing conference, Agency, through counsel, submitted

its prehearing statement and a motion to dismiss for lack of jurisdiction. During the prehearing conference, I heard, *inter alia*, oral argument relative to whether the OEA may properly exercise jurisdiction over this matter. Consequently, Employee was then required to submit a written response to the Agency's motion to dismiss on or before March 19, 2009. Instead of contesting Agency's motion to dismiss, Employee, through counsel, executed a letter voluntarily withdrawing her petition for appeal with the OEA. In consideration of Employee's voluntary withdrawal, I have decided that no further proceedings are warranted. The record is now closed.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Should this matter be dismissed?

ANALYSIS AND CONCLUSION

Employee, through counsel, has voluntarily withdrawn her petition for appeal. Pursuant to this withdrawal, I conclude that this matter may now be dismissed.

ORDER

It is hereby ORDERED that this matter be DISMISSED.

FOR THE OFFICE:

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ERIC T. ROBINSON Esq.  
Administrative Judge