

**THE DISTRICT OF COLUMBIA**  
**BEFORE**  
**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	
ALPHONSO BRYANT	)	
DARRYL LOVE	)	
Employees	)	
	)	OEA Matter No.: 1601-0123-96
v.	)	
	)	
D.C. DEPARTMENT OF	)	
CORRECTIONS	)	
Agency	)	
	)	

**OPINION ON**  
**REMAND**

Alphonso Bryant and Darryl Love (“Employees”) were Correctional Officers with the D.C. Department of Corrections (“Agency”). On December 17, 2007 Agency dismissed Employees along with seven other Correctional Officers for having allowed two prison inmates to escape. All nine employees filed Petitions for Appeal with the Office of Employee Appeals (“OEA”). Because all of the appeals involved the same set of facts, the Administrative Judge assigned to the appeals consolidated all nine of them.

The Administrative Judge held an evidentiary hearing. Based on all of the evidence contained within the record, the Administrative Judge upheld Agency’s removal

action with respect to Employees. With respect to the remaining seven employees, the Administrative Judge ordered that they be returned to work. In one Initial Decision issued June 22, 2009, the Administrative Judge issued his ruling.

Thereafter, Agency timely filed a Petition for Review with OEA's Board contesting the ruling as it pertained to the seven employees who were returned to work. On August 25, 2009, Employees filed a Petition for Review of Agency Decision in the Superior Court of the District of Columbia. Agency has argued before the court that it lacks subject matter jurisdiction to hear the appeal filed before it because we have not rendered a final decision on the Petition for Review filed with us. Thus, Agency has asked the court to dismiss the petition. Rather than dismissing the case, the court has stayed the proceedings and remanded the case to us for us to determine whether we have jurisdiction over the entire initial decision.

We do not have subject matter jurisdiction over the case as it relates to Employees Bryant and Love. According to D.C. Official Code § 1-606.03(c), "unless a party files a petition for review of the initial decision with the Office within the 35-day filing period[,] [t]he initial decision . . . shall become final 35 days after issuance. . ." Because Agency's Petition for Review filed before us did not relate to Employees Bryant and Love, the Initial Decision as it pertained to those two employees became a final decision 35 days after it was issued. At the point of finality, the Office no longer had jurisdiction over the appeals of Bryant and Love. We do however, retain jurisdiction over Agency's petition as it relates to the seven employees who were ordered back to work.

FOR THE BOARD:

\_\_\_\_\_-s-\_\_\_\_\_  
Clarence Labor, Jr., Chair

\_\_\_\_\_-s-\_\_\_\_\_  
Barbara D. Morgan

\_\_\_\_\_-s-\_\_\_\_\_  
Richard Johns

Respectfully submitted this 6<sup>th</sup> day of August 2010.

\_\_\_\_\_-s-\_\_\_\_\_  
SHEILA G. BARFIELD, ESQ.  
General Counsel  
D.C. Bar # 450872