

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

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In the Matter of: )  
 ) OEA Matter No. 1601-0158-00C09  
CHANNAVAJJAL M. PRASAD )  
Employee ) Date of Issuance: November 30, 2009  
 )  
v. )  
 ) Joseph E. Lim, Esq.  
COMMISSION ON ) Senior Administrative Judge  
MENTAL HEALTH SERVICES )  
Agency )  
\_\_\_\_\_ )

Frank McDougald, Esq., Agency Representative  
E. John Steren, Esq., Employee Representative

**ADDENDUM DECISION ON COMPLIANCE**

INTRODUCTION AND PROCEDURAL HISTORY

On September 22, 2000, Employee appealed from Agency's final decision terminating him for fraud and inexcusable absence without leave. Specifically, Employee, a Medical Officer (Psychiatry) at St. Elizabeth's Hospital, was accused of failing to show up for work on January 26, 2000, and for backdating and falsifying a patient's record.

I held conferences on September 25, 2002, and June 18, 2003, after denying Agency's motion to dismiss for lack of jurisdiction. A hearing was held on August 27, 2003. On October 15, 2003, I issued an Initial Decision (ID) in which I found that Agency failed to meet its burden of establishing cause for taking adverse action and therefore ordered Agency to reinstate Employee to his position of record with all back pay and benefits due him.

Agency filed a petition for review. On September 19, 2006, the Board issued an Opinion and Order on Petition for Review (O&O) affirming the ID. On October 16, 2006, Agency filed a petition for review of the O&O with the Superior Court of the District of Columbia. On November 5, 2008, the Superior Court for the District of Columbia affirmed my ID. Agency declined to appeal, and the decision became final thirty days later on.

On January 28, 2009, Employee filed a motion for compliance, complaining that Agency had not reversed its removal action nor given back him back pay and benefits. In its February 23, 2009, response to my Show Cause Order, Agency stated that it had reinstated Employee and was in the process of working out his back pay. I ordered Agency to submit status reports on its compliance. Employee indicated on July 17, 2009, and on November 20, 2009, that although the parties have

reached an agreement on the amount of back pay and benefits due, Agency has not paid yet and has failed to inform Employee of its status. Agency in its November 25, 2009, status report that it needed at least four more weeks to resolve the back pay and benefits issue. The record is closed.

### JURISDICTION

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

### ISSUE

Whether this matter should be certified to the General Counsel.

### ANALYSIS AND CONCLUSION

OEA Rule § 636.1, 46 D.C. Reg. at 9321 (1999) reads as follows:

636.1 Unless the Office's final decision is appealed to the District of Columbia Superior Court, the District agency shall comply with the Office's final decision within thirty (30) calendar days from the date the decision becomes final.

OEA Rule 636.8, *id.*, reads in pertinent part as follows:

If the Administrative Judge determines that the agency has not complied with the final decision, the Administrative Judge shall certify the matter to the General Counsel. The General Counsel shall order the agency to comply with the Office's final decision in accordance with D.C. Code § 1-606.2.

In a compliance matter, the administrative judge's role is to determine whether or not the agency has complied with the Office's final decision. Here, there is no question that Agency did not comply with the final decision within the 30-day time frame, nor has it done so more than a year later. Therefore, pursuant to OEA Rule 636.8, *supra*, this matter is certified to the Office's General Counsel for appropriate action.

### ORDER

It is hereby ORDERED that this matter be certified to the General Counsel.

FOR THE OFFICE:

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JOSEPH E. LIM, Esq.  
Senior Administrative Judge