

STATE OF CONNECTICUT  
EMPLOYEES' REVIEW BOARD  
**INDEX OF DECISIONS—BY CASE/DATE**

(The Index of Decisions is a generalized summary of the Board's case decisions. The Index is for reference purposes only. The summaries should not be used as a substitute for the full decision.)

*In the Matter of Norman Schipke-and-State of Connecticut, Department of Veteran's Affairs*, ERB Case No. 1007, August 29, 2005

Panel: Wendella Ault Battey, Laurie Cain, Richard M. McCostis

The Panel sustained the grievance finding that the dismissal of the Grievant was arbitrary or taken without reasonable cause. The Panel found "no credible evidence" that the Grievant was responsible for a shortage of medications. The Panel did find the Grievant failed to turn over donations to the Department in a timely manner, failed to report a physical threat to security and failed to properly supervise a patient. Pursuant to its authority under Section 5-202(b) of the General Statutes, the Grievant was ordered reinstated. However, the Panel suspended the Grievant for six months without pay or benefits.

*In the Matter of Matthew Regan-and-State of Connecticut, Department of Correction*, ERB Case No. 1010, October 6, 2005

Panel: Matthew Borrelli, Susan E. Halperin, Leslie A. Williamson, Jr.

The Panel denied the grievance in part, finding that the five-day suspension of a Correctional Captain was not arbitrary or taken without reasonable cause when the Captain failed to properly supervise a cell extraction. The Panel sustained the grievance with regard to the transfer and shift change of the grievant finding that it had jurisdiction to hear cases involving a disciplinary transfer (but not an administrative transfer) and holding that the grievant's disciplinary transfer was arbitrary and taken without reasonable cause.

*In the Matter of Alan Plofsky-and-State of Connecticut, Ethics Commission*, ERB Case No. 1009, March 31 2006

Panel: Sandra Biloon, Susan E. Halperin, Leslie A. Williamson, Jr.

The Panel sustained the grievance finding that the Ethics Commission terminated Mr. Plofsky from his position as Executive Director/General Counsel without reasonable cause. Mr. Plofsky was terminated for: telling a staff member to lie if she had to testify before a grand jury; telling a staff member to destroy a tape recording of a commission meeting; taking or accruing compensatory time inconsistent with State policy and failing to disclose his involvement in the release of a document to the media. The Panel held, in light of the circumstances surrounding the termination, that none of the reasons constitute serious misconduct that was cause for dismissal. Mr. Plofsky was order reinstated to active state service.

*In the Matter of Gregory Gioia-and-State of Connecticut, Department of Veterans' Affairs.* ERB Case No. 1012, November 27, 2006

Panel: Matthew Borrelli, Susan E. Halperin, Leslie A. Williamson, Jr.

The Panel denied the grievance finding that the termination of Mr. Gioia was not arbitrary or taken without reasonable cause. The Panel found that Mr. Gioia, a Fiscal/Administrative Manger 2, extensively used the state computer for personal use in violation of the policies of the Department of Veterans' Affairs.

*In the Matter of John K. Watts, Jr.-and-Department of Children and Families*

ERB Case No. 1017, January 5, 2007

Panel: Sandra Biloon, Matthew Borrelli, Leslie A. Williamson, Jr.

The Panel denied the grievance finding that the termination of Mr. Watts was not arbitrary or taken without reasonable cause. The Panel found that Mr. Watts, an Assistant Superintendent of Schools at the Connecticut Juvenile Training School, misused state time by his attendance at a Master Gardner course, which was not job related and for which Mr. Watts did not obtain authorization.

NOTE: The decision by the ERB was appealed to superior court. On July 17, 2008, the court, McWeeny, J., upheld the decision of the ERB.

*In the Matter of Scott Sherrick-and-Department of Corrections*

ERB Case No. 1013, May 4, 2007

Panel: Sandra Biloon, Thomas Staley, Leslie A. Williamson, Jr.

The Panel determined that the demotion of Mr. Sherrick from Lieutenant to Correction Officer was arbitrary and taken without reasonable cause. The incident pertaining to Mr. Sherrick's demotion involved unprofessional conduct toward a Correction Officer cadet. The Panel reinstated Mr. Sherrick to the position of Lieutenant but suspended him without pay for thirty days because of the incident.

*In the Matter of Timothy Kulish-and-Department of Motor Vehicles*

ERB Case No. 1018, September 26, 2007

Panel: Susan E. Halperin, Thomas Staley, Leslie A. Williamson, Jr.

The Panel determined that it lacked jurisdiction to hear the appeal of Mr. Kulish since he elected to file a complaint with the Commission on Human Rights and Opportunities' Office of Public Hearings under Section 4-61dd(b)(4) of the Connecticut General Statutes. The statute permits a filing with the Employees' Review Board as an alternative to a filing with the Commission on Human Rights and Opportunities not in addition to such a filing.

*In the Matter of Joseph Teal-and-Department of Public Health*

ERB Case No. 1026, January 14, 2009

Panel: Susan Meredith, Thomas Staley, Leslie A. Williamson, Jr.

The Panel determined that the five-day suspension of Joseph Teal was arbitrary and taken without reasonable cause. The Panel held that the severity of the incident giving rise to the discipline and the lack of progressive discipline, a component of just cause, warranted the reduction of the suspension to a letter of reprimand.

*In the Matter of Benjamin Pagoni-and-Department of Public Safety*  
ERB Case No. 1025, April 3, 2009

Panel: Matthew Borrelli, Susan Meredith, Leslie A. Williamson, Jr.

The Panel determined that the four-day suspension of Benjamin Pagoni was taken without reasonable cause. The State disciplined Lieutenant Pagoni for failing to notify the Troop of his involvement in a pursuit. Lieutenant Pagoni offered a plausible explanation for his inability to contact the Troop. The State did not demonstrate that Lieutenant Pagoni's explanation was insufficient.

*In the Matter of Richard Reyes-and-Department of Correction*  
ERB Case No. 943, August 31, 2009

Panel: Matthew Borrelli, Susan E. Halperin, Susan Meredith, Emanuel N. Psarakis, Leslie A Williamson, Jr.

The Employees' Review Board, as a whole, dismissed the appeal of Richard Reyes for failure to pursue an appeal. Richard Reyes appealed a demotion he received. Prior to a hearing, Mr. Reyes died. Neither his heirs nor anyone who might have had an interest in the appeal pursued his case. After a six-year period of dormancy, and upon motion by the Department of Correction, the matter was dismissed.

*In the Matter of Bruce Gardner-and Department of Correction*  
ERB Case 1029, September 25, 2009

Panel: Matthew Borrelli, Emanuel N. Psarakis, Leslie A. Williamson, Jr.

The Panel determined that the ten-day suspension of Mr. Gardner was neither arbitrary nor taken without reasonable cause. Mr. Gardner's violation of numerous Administrative Directives, policies and procedures warranted the suspension. The appeal was denied.

*In the Matter of David Aflalo-and-Department of Public Safety*  
ERB Case No. 1030, December 2, 2009

Panel: Matthew Borrelli, Susan Meredith, Leslie A. Williamson, Jr.

The Panel determined that the twenty-day suspension of David Aflalo was taken without reasonable cause. The State discipline of Lieutenant Aflalo for falsifying or altering official documents was reduced to a five-day suspension, at the rate of pay of sergeant, the rank he held when the violation of the Rules of Conduct occurred.

*In the Matter of Henry Pawlowski-and-Freedom of Information Commission*  
ERB Case No. 1032, December 8, 2009

Panel: Matthew Borrelli, Susan E. Halperin, Leslie A. Williamson, Jr.

Pursuant to the provisions of Section 4-177(c), the Panel incorporated and made as its award the provisions of a Stipulated Agreement between Pawlowski and the Freedom of Information Commission resolving Pawlowski's appeal of his termination.

*In the Matter of Shaun McDonough-and-State of Connecticut*

ERB Case No. 1033, June 4, 2010

Panel: Matthew Borrelli, Susan E. Halperin, Emanuel N. Psarakis

OPM's compliance with Special Act 09-06, An Act Concerning State Personnel Cost Savings, imposing a day schedule reduction resulting in a one-day's loss of pay to McDonough did not violate Section 5-241 of the General Statutes. OPM's actions were neither arbitrary nor taken without reasonable cause. The appeal was denied.

*In the Matter of Kathryn Reddington, Deborah Duval, Lynn Skene-Johnson-and-State of Connecticut, Department of Developmental Services*

ERB Case Nos. 1035, 1036 and 1037, September 2, 2011

Panel: Matthew Borrelli, Leslie A. Williamson, Jr., Emanuel N. Psarakis (Dissenting)

The Panel consolidated the three appeals. Appellants claimed that their compensation was incorrectly calculated in 1996 (Reddington and Skene-Johnson) and 1999 (Duval) when they moved from an unclassified union position to a classified managerial position not in a collective bargaining unit. The Appellants asserted that they should have been paid over the maximum salary rate in their new position. The Panel reviewed statutes, regulations and administrative policy. The Majority held that the Appellants had not met their burden in demonstrating that the State had incorrectly calculated their salary as a "demotion." The Majority held that the State had shown a distinction between "functional" promotion and "compensation" demotion. The Dissent held that the Appellants should have been compensated above position rate because they were promoted not demoted. The decision was appealed. The Superior Court upheld the decision of the ERB majority. (*Reddington, et al. v. Employees' Review Board, et al.*, No. CV 11 6012737S, Superior Court, Judicial District of New Britain, October 18, 2012, Cohen, J.)

*In the Matter of Patricia Stamidis-and-State of Connecticut, Department of Correction*

ERB Case Nos. 1041, November 11, 2011

Panel: Matthew Borrelli, Susan Halperin, Victor Schoen

The Panel found that it lacked jurisdiction to hear the appeal because it was not initiated within thirty calendar days from the date of the alleged violation as required by Section 5-202 of the Connecticut General Statutes.

*In the Matter of Albert Johnson-and-State of Connecticut, Department of Children & Families*

ERB Case No. 1043, August 1, 2012

Panel: Susan E. Halperin, Emanuel Psarakis, Leslie A. Williamson, Jr.

The Panel concluded that there was just cause for the imposition of discipline but not the quantum of discipline imposed. Therefore, the Panel reduced the five-day suspension to three days. Johnson was disciplined for failing to ensure his assigned staff complied with administrative policy.

*In the Matter of Andrew T. Munson-and-State of Connecticut, Department of Motor Vehicles*

ERB Case No. 1046, February 15, 2013

Panel: Emanuel Psarakis, Matthew Borrelli, Victor Schoen

The Panel found that the State properly laid off the employee in accordance the statutory standard of order of seniority and that a defective initial notice of layoff was "cured" by a subsequent notice and an appropriate extension of the date of layoff.

*In the Matter of Dale P. Hourigan-and-State of Connecticut, Department of Emergency Services and Public Protection*

ERB Case No. 1051, October 23, 2014

Panel: Matthew Borrelli, Emanuel Psarakis, Leslie A. Williamson, Jr.

This matter involved a claim alleging denial of a longevity payment due as a member of a bargaining unit. The Panel held that the ERB has no subject matter jurisdiction over a controversy arising under a collective bargaining agreement notwithstanding the fact that the employee subsequently became a non-bargaining unit employee.

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**ABANDONMENT**

*In the Matter of Richard Reyes-and-Department of Correction*

ERB Case No. 943, August 31, 2009

Panel: Matthew Borrelli, Susan E. Halperin, Susan Meredith, Emanuel N. Psarakis, Leslie A Williamson, Jr.

The Employees' Review Board, as a whole, dismissed the appeal of Richard Reyes for failure to pursue an appeal. Richard Reyes appealed a demotion he received. Prior to a hearing, Mr. Reyes died. Neither his heirs nor anyone who might have had an interest in the appeal pursued his case. After a six-year period of dormancy, and upon motion by the Department of Correction, the matter was dismissed.

**COMPENSATION**

*In the Matter of Kathryn Reddington, Deborah Duval, Lynn Skene-Johnson-and-State of Connecticut, Department of Developmental Services*

ERB Case Nos. 1035, 1036 and 1037, September 2, 2011

Panel: Matthew Borrelli, Leslie A. Williamson, Jr., Emanuel N. Psarakis (Dissenting)

The Panel consolidated the three appeals. Appellants claimed that their compensation was incorrectly calculated in 1996 (Reddington and Skene-Johnson) and 1999 (Duval) when

they moved from an unclassified union position to a classified managerial position not in a collective bargaining unit. The Appellants asserted that they should have been paid over the maximum salary rate in their new position. The Panel reviewed statutes, regulations and administrative policy. The Majority held that the Appellants had not met their burden in demonstrating that the State had incorrectly calculated their salary as a “demotion.” The Majority held that the State had shown a distinction between “functional” promotion and “compensation” demotion. The Dissent held that the Appellants should have been compensated above position rate because they were promoted not demoted. The decision was appealed. The Superior Court upheld the decision of the ERB majority. (*Reddington, et al. v. Employees’ Review Board, et al.*, No. CV 11 6012737S, Superior Court, Judicial District of New Britain, October 18, 2012, Cohen, J.)

## **DEMOTION**

*In the Matter of Scott Sherrick-and-Department of Corrections*  
ERB Case No. 1013, May 4, 2007

Panel: Sandra Biloon, Thomas Staley, Leslie A. Williamson, Jr.

The Panel determined that the demotion of Mr. Sherrick from Lieutenant to Correction Officer was arbitrary and taken without reasonable cause. The incident pertaining to Mr. Sherrick’s demotion involved unprofessional conduct toward a Correction Officer cadet. The Panel reinstated Mr. Sherrick to the position of Lieutenant but suspended him without pay for thirty days because of the incident.

## **JURISDICTION**

*In the Matter of Timothy Kulish-and-Department of Motor Vehicles*  
ERB Case No. 1018, September 26, 2007

Panel: Susan E. Halperin, Thomas Staley, Leslie A. Williamson, Jr.

The Panel determined that it lacked jurisdiction to hear the appeal of Mr. Kulish since he elected to file a complaint with the Commission on Human Rights and Opportunities’ Office of Public Hearings under Section 4-61dd(b)(4) of the Connecticut General Statutes. The statute permits a filing with the Employees’ Review Board as an alternative to a filing with the Commission on Human Rights and Opportunities not in addition to such a filing.

*In the Matter of Patricia Stamidis-and-State of Connecticut, Department of Correction*  
ERB Case Nos. 1041, November 11, 2011

Panel: Matthew Borrelli, Susan Halperin, Victor Schoen

The Panel found that it lacked jurisdiction to hear the appeal because it was not initiated within thirty calendar days from the date of the alleged violation as required by Section 5-202 of the Connecticut General Statutes.

*In the Matter of Dale P. Hourigan-and-State of Connecticut, Department of Emergency Services and Public Protection*

ERB Case No. 1051, October 23, 2014

Panel: Matthew Borrelli, Emanuel Psarakis, Leslie A. Williamson, Jr.

This matter involved a claim alleging denial of a longevity payment due as a member of a bargaining unit. The Panel held that the ERB has no subject matter jurisdiction over a controversy arising under a collective bargaining agreement notwithstanding the fact that the employee subsequently became a non-bargaining unit employee.

## **LAYOFF**

*In the Matter of Andrew T. Munson-and-State of Connecticut, Department of Motor Vehicles*

ERB Case No. 1046, February 15, 2013

Panel: Emanuel Psarakis, Matthew Borrelli, Victor Schoen

The Panel found that the State properly laid off the employee in accordance the statutory standard of order of seniority and that a defective initial notice of layoff was "cured" by a subsequent notice and an appropriate extension of the date of layoff.

## **SCHEDULE REDUCTION**

*In the Matter of Shaun McDonough-and-State of Connecticut*

ERB Case No. 1033, June 4, 2010

Panel: Matthew Borrelli, Susan E. Halperin, Emanuel N. Psarakis

OPM's compliance with Special Act 09-06, An Act Concerning State Personnel Cost Savings, imposing a day schedule reduction resulting in a one -day's loss of pay to McDonough did not violate Section 5-241 of the General Statutes. OPM's actions were neither arbitrary nor taken without reasonable cause. The appeal was denied.

## **SUSPENSION**

*In the Matter of Matthew Regan-and-State of Connecticut, Department of Correction*

ERB Case No. 1010, October 6, 2005

Panel: Matthew Borrelli, Susan E. Halperin, Leslie A. Williamson, Jr.

The Panel denied the grievance in part, finding that the five-day suspension of a Correctional Captain was not arbitrary or taken without reasonable cause when the Captain failed to properly supervise a cell extraction. The Panel sustained the grievance with regard to the transfer and shift change of the grievant finding that it had jurisdiction to hear cases involving a disciplinary transfer (but not an administrative transfer) and holding that the grievant's disciplinary transfer was arbitrary and taken without reasonable cause.

*In the Matter of Joseph Teal-and-Department of Public Health*

ERB Case No. 1026, January 14, 2009

Panel: Susan Meredith, Thomas Staley, Leslie A. Williamson, Jr.

The Panel determined that the five-day suspension of Joseph Teal was arbitrary and taken without reasonable cause. The Panel held that the severity of the incident giving rise to the discipline and the lack of progressive discipline, a component of just cause, warranted the reduction of the suspension to a letter of reprimand.

*In the Matter of Benjamin Pagoni-and-Department of Public Safety*

ERB Case No. 1025, April 3, 2009

Panel: Matthew Borrelli, Susan Meredith, Leslie A. Williamson, Jr.

The Panel determined that the four-day suspension of Benjamin Pagoni was taken without reasonable cause. The State disciplined Lieutenant Pagoni for failing to notify the Troop of his involvement in a pursuit. Lieutenant Pagoni offered a plausible explanation for his inability to contact the Troop. The State did not demonstrate that Lieutenant Pagoni's explanation was insufficient.

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ERB Case 1029, September 25, 2009

Panel: Matthew Borrelli, Emanuel N. Psarakis, Leslie A. Williamson, Jr.

The Panel determined that the ten-day suspension of Mr. Gardner was neither arbitrary nor taken without reasonable cause. Mr. Gardner's violation of numerous Administrative Directives, policies and procedures warranted the suspension. The appeal was denied.

*In the Matter of David Aflalo-and-Department of Public Safety*

ERB Case No. 1030, December 2, 2009

Panel: Matthew Borrelli, Susan Meredith, Leslie A. Williamson, Jr.

The Panel determined that the twenty-day suspension of David Aflalo was taken without reasonable cause. The State discipline of Lieutenant Aflalo for falsifying or altering official documents was reduced to a five-day suspension, at the rate of pay of sergeant, the rank he held when the violation of the Rules of Conduct occurred.

*In the Matter of Albert Johnson-and-State of Connecticut, Department of Children & Families*

ERB Case No. 1043, August 1, 2012

Panel: Susan E. Halperin, Emanuel Psarakis, Leslie A. Williamson, Jr.

The Panel concluded that there was just cause for the imposition of discipline but not the quantum of discipline imposed. Therefore, the Panel reduced the five-day suspension to three days. Johnson was disciplined for failing to ensure his assigned staff complied with administrative policy.

## TERMINATION

*In the Matter of Norman Schipke-and-State of Connecticut, Department of Veteran's Affairs*, ERB Case No. 1007, August 29, 2005

Panel: Wendella Ault Battey, Laurie Cain, Richard M. McCostis

The Panel sustained the grievance finding that the dismissal of the Grievant was arbitrary or taken without reasonable cause. The Panel found "no credible evidence" that the Grievant was responsible for a shortage of medications. The Panel did find the Grievant failed to turn over donations to the Department in a timely manner, failed to report a physical threat to security and failed to properly supervise a patient. Pursuant to its authority under Section 5-202(b) of the General Statutes, the Grievant was ordered reinstated. However, the Panel suspended the Grievant for six months without pay or benefits.

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Panel: Matthew Borrelli, Susan E. Halperin, Leslie A. Williamson, Jr.

The Panel denied the grievance finding that the termination of Mr. Gioia was not arbitrary or taken without reasonable cause. The Panel found that Mr. Gioia, a Fiscal/Administrative Manger 2, extensively used the state computer for personal use in violation of the policies of the Department of Veterans' Affairs.

*In the Matter of John K. Watts, Jr.-and-Department of Children and Families* ERB Case No. 1017, January 5, 2007

Panel: Sandra Biloon, Matthew Borrelli, Leslie A. Williamson, Jr.

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NOTE: The decision by the ERB was appealed to superior court. On July 17, 2008, the court, McWeeny, J., upheld the decision of the ERB.

*In the Matter of Henry Pawlowski-and-Freedom of Information Commission*

ERB Case No. 1032, December 8, 2009

Panel: Matthew Borrelli, Susan E. Halperin, Leslie A. Williamson, Jr.

Pursuant to the provisions of Section 4-177(c), the Panel incorporated and made as its award the provisions of a Stipulated Agreement between Pawlowski and the Freedom of Information Commission resolving Pawlowski's appeal of his termination.