

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 55-08

ORDER DISMISSING APPEAL

IN THE MATTER OF THE APPEAL OF:

GLENN SAMPLE, Appellant,

vs.

DEPARTMENT OF HUMAN SERVICES,
and the City and County of Denver, a municipal corporation, Agency.

On Dec. 16, 2008, the Agency filed its motion to dismiss the above appeal. Appellant has not responded to the motion. Having considered the motion and other pleadings in this and Appellant's earlier appeal, CSA # 72-07, it is found and ordered as follows:

Procedural History

In October 2007, the Agency terminated Appellant's probation in the position of Youth Worker. He appealed that termination in CSA Appeal No. 72-07 to the Hearing Office, which reversed the Agency action. That decision was reversed by the Career Service Board on October 16, 2008, which affirmed the termination of probation, resulting in reinstatement of the original termination decision.

In September 2008, while Appeal No. 72-07 was pending before the Board, the Agency again terminated the Appellant, this time for disciplinary reasons under CSR Rule 16. This is Appellant's appeal of that action. At Appellant's request, this appeal was stayed on Sept. 26, 2008 to allow Appellant to seek District Court review of the Board action in Appeal No. 72-07. The parties were directed to file a status report in this appeal by Nov. 28, 2008. The Agency filed its status report, and Appellant did not. Appellant's counsel has since been permitted to withdraw. Appellant has filed no pleadings in this appeal since Sept. 25, 2008.

Findings of Fact

The Agency argues that the Hearing Officer lacks jurisdiction to hear this appeal because the second termination has no legal effect after the Board affirmed the Agency's original termination.

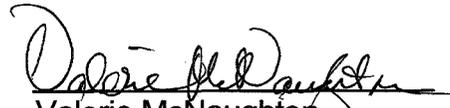
Appellant had thirty days to file a remedial writ in District Court challenging

the CSB decision on his original termination. C.R.C.P. Rule 106(a)(4), (b). Appellant has failed to present any facts that would support a finding that jurisdiction over this second termination exists, despite the finality of the initial termination. I find that Appellant permitted the CSB decision to become final by his failure to file a District Court action challenging that decision. This appeal is therefore mooted by reinstatement of the original termination decision.

ORDER

Based on the foregoing findings, this appeal is dismissed with prejudice as moot.

Dated this 7th day of January, 2009.


Valerie McNaughton
Career Service Hearing Officer