

3-22-11 ORDERS CONCERNING A PANOPLY OF MOTIONS AND RESPONSES

IN THE MATTER OF THE APPEAL OF:

JOSEPH WEBSTER, Appellant,

vs.

DENVER SHERIFF'S DEPARTMENT,

and the City and County of Denver, a municipal corporation, Agency.

This Order addresses the following outstanding pleadings: Appellant's "Hearing Date;" "Agency's Response to Appellant's 'Motion to Add Additional Hearing Days;" Appellant's "Response to the Honorable Hearing Officer Valerie McNaughton's Order;" Appellant's "Reply to Agency's Response to a Non Motion;" Appellant's "Motion to Continue 03/15/11 For Filing Changes to the Pre-Hearing Statements;" Appellant's "Motion to Dismiss the Underlining [sic] Manager of Safety Order of Dismissal and Reinstate Deputy Sheriff Webster to His Former Position." Agency's Response to Petitioner's Motion to Dismiss the Underlining (sic) Manager of Safety Order of Dismissal and Reinstate Deputy Sheriff Webster to His Former Position.;" Appellant's "Motion to the Career Service Authority and Hearing Office to Cause to Be Issued Subpoenas to All the Witnesses Listed in Appellant's Pre-Hearing Statement;" "Appellant, Joseph Webster's Second Amended and Supplemental Pre-Hearing Statement;" Appellant's "Verified Motion to Enlarge the Number of Days for Hearing; And Motion to Enter an Order Prohibiting Deputy Sheriff Division Elias Diggins from Intentionally Interfering in Appellant's Attorney in Preparing Webster's Due Process Disciplinary Case for Hearing;" "Agency's Response to Appellant's Verified Motion to Enlarge the Number of Days for Hearing;" and "Agency's Response to Appellant's Motion to Enter an Order Prohibiting Deputy Sheriff Division Elias Diggins from Intentionally Interfering in Appellant's Attorney in Preparing Webster's Due Process Disciplinary Case for Hearing;"

Orders

1. The following Motions are **MOOT**: Appellant's "Hearing Date;" "Agency's Response to Appellant's 'Motion to Add Additional Hearing Days;" Appellant's "Response to the Honorable Hearing Officer Valerie McNaughton's Order;" Appellant's "Reply to Agency's Response to a Non Motion;"
2. Appellant's "Motion to Continue 03/15/11 for Filing Changes to the Pre-Hearing Statements," filed on March 15, 2011 is **DENIED** as untimely.
3. In consequence of his untimely motion requesting an enlargement of time, immediately above, Appellant's "Appellant, Joseph Webster's Second Amended and Supplemental Pre-Hearing Statement" is **STRICKEN AS MOOT**.

4. Regarding the following filings: Appellant's "Motion to Dismiss the Underlining [sic] Manager of Safety Order of Dismissal and Reinstate Deputy Sheriff Webster to His Former Position." Agency's Response to Petitioner's Motion to Dismiss the Underlining (sic) Manager of Safety Order of Dismissal and Reinstate Deputy Sheriff Webster to His Former Position" - Appellant's motion is **DENIED** insofar as Appellant's claim the Agency lacks authority to designate an agent to impose discipline. See Career Service Rule (CSR) 1-1, definition of "Appointing Authority," and CSR 16-70, "Appointing Authorities may designate agents to act for them in imposing discipline under this Rule 16." The remaining requests to reinstate the Appellant with back pay and benefits are **not ripe for review** and will be determined following hearing.

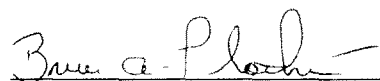
5. Regarding Appellant's "Motion to the Career Service Authority and Hearing Office to Cause to Be Issued Subpoenas to All the Witnesses Listed in Appellant's Pre-Hearing Statement," and Agency's response, Appellant's motion is **DENIED** in its entirety as untimely, (see paragraph D.1. of the second "Notice of Hearing and Pre-Hearing Order" dated February 1, 2011), and otherwise not in compliance with paragraph 3 of the "Notice of Hearing and Pre-Hearing Order of February 1, 2011, including lack of good cause for his untimely request. It should be noted that some of the witnesses for whom the Appellant requests subpoenas will be available, as they are designated "will call" witnesses for the Agency.

6. Regarding Appellant's "Verified Motion to Enlarge the Number of Days for Hearing," and the "Agency's Response to Appellant's Verified Motion to Enlarge the Number of Days for Hearing," the Appellant's motion is DENIED as the denial of his request for subpoenas renders the need for additional hearing time moot.

7. Regarding Appellant's "Motion to Enter an Order Prohibiting Deputy Sheriff Division Elias Diggins from Intentionally Interfering in Appellant's Attorney in Preparing Webster's Due Process Disciplinary Case for Hearing" and the Agency's response in opposition DONE February 1, 2011, Appellant's Motion is DENIED as moot, as Agency's response indicated if there was any restriction imposed upon a potential witness to choose whether to speak with Appellant's attorney, the restriction is lifted. Appellant may re-raise the issue at hearing if he believes the order remained following the Agency's response.

8. In addition, the following orders enter in this case. The parties shall confer prior to the date of hearing to ensure the exchange all documents each side intends to introduce at hearing. The parties shall prepare, prior to hearing, a "joint pre-hearing notice concerning exhibits," to include which exhibits may be entered into the record by stipulation, to which of the opposing party's exhibits there is an objection, a very brief statement of the basis of the objection, e.g. hearsay, authenticity, relevance, and a very brief response thereto. The statement shall be filed at or before the beginning of hearing on March 30, 2011.

DONE March 22, 2011.



Bruce A. Plotkin
Career Service Hearing Officer