

**BEFORE THE
MERIT SYSTEM PROTECTION BOARD
FOR
MONTGOMERY COUNTY, MARYLAND**

IN THE MATTER OF

████████████████████,

APPELLANT,

AND

**MONTGOMERY COUNTY
GOVERNMENT,**

EMPLOYER

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CASE NO. 19-06

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ORDER OF DISMISSAL

On September 5, 2018, ██████████ (Appellant) filed an appeal with the Merit System Protection Board (MSPB or Board), challenging a denial of employment as a police officer.¹ That same day an acknowledgement letter was sent to Appellant advising him that the Board could not process the appeal until it received a copy of a notice of non-selection. Montgomery County Personnel Regulation (MCPR), § 35-4(d)(3). Having received no response to its letter, the Board issued a Show Cause Order on October 24, 2018, instructing Appellant to provide a statement of such good cause as exists for why he has failed to provide a required notice of non-selection. The statement was ordered to be filed on or before close of business November 20, 2018. The Show Cause Order advised Appellant that, absent the filing of the required notice of non-selection, or a finding by the Board that there was good cause for his failure to file a notice of non-selection, the Board will dismiss this appeal for lack of jurisdiction. MCPR § 35-7(b) & (c). To date, Appellant has not responded to the Board’s letter, Show Cause Order, or provided the Board with a copy of a notice of non-selection.

MCPR §35-4(d) provides that an applicant contesting a nonselection action “*must* include the following documentation with the appeal: (3) If the employee or applicant is contesting a

¹ Appellant submitted his online appeal September 4, 2018 at 10:13 p.m., after MSPB business hours. Accordingly, the appeal was considered to have been officially received the Board’s next business day.

nonselection/nonpromotion decision, a copy of the notification of nonselection/nonpromotion *must* be provided.” (emphasis added).

After being given ample opportunity, Appellant has not provided a copy of a notice of nonselection. Thus, the Board must dismiss this matter for failure to comply with established appeal procedures. MCPR § 35-7(b). Accordingly, it is hereby **ORDERED** that the appeal in Case No. 19-06 is dismissed.

Pursuant to Montgomery County Code, § 33-15, *Judicial review and enforcement*, and MCPR, § 35-18, *Appeals to court of MSPB decisions*, if any party disagrees with the decision of the Merit System Protection Board they may within 30 days file an appeal with the Circuit Court for Montgomery County, Maryland, in the manner prescribed under Chapter 200, Title 7 of the Maryland Rules.

For the Board
November 29, 2018



Angela Franco
Chair