

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

IN THE MATTER OF

[REDACTED],

APPELLANT,

AND

**MONTGOMERY COUNTY
GOVERNMENT,**

EMPLOYER

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CASE NOS. 19-19 & 19-26

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ORDER CONSOLIDATING APPEALS AND SETTING SCHEDULE

[REDACTED] (Appellant), an employee of the Department of Correction and Rehabilitation, has filed two appeals with the Merit System Protection Board (Board or MSPB). On March 4, 2019, he filed an appeal (MSPB Case No. 19-19) of a disciplinary action of November 28, 2018. That same day, by letter sent to the address provided on the Appeal Form, the Board acknowledged the first appeal and advised Appellant that it was necessary for him to provide a copy of the Notice of Disciplinary Action (NODA) he was appealing. Montgomery County Personnel Regulations, §35-4(d)(1). On April 1, 2019, the post office returned the Board's letter as undeliverable, addressee unknown. The day the letter was returned the Board's Office Services Coordinator contacted Appellant and provided him with a copy of the Board's letter by email.

On April 8, 2019, Appellant filed a second appeal (MSPB Case No. 19-26) and attached an incomplete copy of a NODA dated February 27, 2019. On April 9, 2019, the Board sent Appellant another letter requesting a complete copy of the NODA and asking if both the of appeals were based on the same NODA. The letter requested that Appellant submit a NODA for the March 4 appeal (MSPB Case No. 19-19) if it was based on a different NODA.

On May 16, 2019, the Board received a NODA and a Statement of Charges (SOC) from Appellant. No explanation of whether or not Appellant is appealing two different disciplinary actions was provided. It appears that MSPB Case No. 19-19, which was filed on March 4, was based on the SOC dated January 30, 2019. The second appeal, MSPB Case No. 19-26, was filed

April 8 and is based on the NODA dated February 27 and received by Appellant on March 8, 2019. As noted above, the appeal in MSPB Case No. 19-19 was filed March 4, after issuance of the February 27 NODA but before Appellant certified that he had received the NODA.

Because the SOC and NODA appear to both involve a dismissal based on the same events, the Board has determined that it is appropriate to consolidate the above captioned appeals. Montgomery County Administrative Procedures Act, Montgomery County Code, § 2A-8(h)(7).

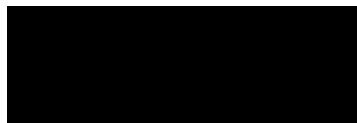
Accordingly, the Board hereby **ORDERS** that MSPB Case Nos. 19-19 and 19-26 be, and hereby are, consolidated.

The Board further **ORDERS** that the information required by Section VI, Prehearing Requirements of the enclosed MSPB Hearing Procedures be submitted **by the County** on or before **Thursday, June 27, 2019**, providing an original and three (3) copies to the Board and one (1) copy to Appellant.

Appellant's Prehearing Submission shall be due on or before **Thursday, July 18, 2019**, providing an original and three (3) copies to the Board and one (1) copy to the County Attorney. The **Prehearing Submission must be hand-delivered or mailed** to the Board. It is not acceptable to submit the Prehearing Submission by email.

A Prehearing Conference will be scheduled to take place after receipt of the Prehearing Submissions.

For the Board
May 28, 2019



Michael J. Kator
Chair