

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

**IN THE MATTER OF**

**[REDACTED],**

**APPELLANT,**

**AND**

**MONTGOMERY COUNTY  
GOVERNMENT,**

**EMPLOYER**

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

**CASE NO. 19-28**

=====

**ORDER OF DISMISSAL**

Appellant filed the above captioned appeal of his dismissal with the Merit System Protection Board (Board or MSPB) on May 16, 2019. Since then, Appellant’s participation in the Appeal has been sporadic.

In the Summer of 2019, the Board made multiple requests for Appellant to file a timely prehearing submission. When Appellant failed to file the required submission or otherwise contact the Board he was sent a July 23, 2019, letter asking him to file his prehearing submission, provide a written explanation for missing the deadline, and asking Appellant to advise the Board in writing if he no longer wished to pursue his appeal. The letter warned that absent a response the Board would dismiss his appeal for failure to prosecute the appeal or comply with established appeal procedures. Montgomery County Personnel Regulations (MCPR), § 35-7(b).

When Appellant failed to respond to the July 23 letter the Board issued a Show Cause Order on August 8, 2019. Appellant responded to the Show Cause Order and the case continued. A prehearing conference was held on October 23, 2019, and a hearing was scheduled for January 8, 2020.

On January 3, 2020, Appellant requested a postponement of the hearing so that he could travel to and participate in a job interview in South Carolina. By letter dated January 6, 2020, the Board postponed the hearing. On January 15, 2020, Board staff contacted the parties to obtain dates they were available for a hearing in April. By email dated January 20, Appellant indicated that he was now working in South Carolina and unable to participate in a hearing the first three

weeks of April. Appellant further stated that if the hearing was the last week in April, he would try to obtain permission from his supervisor and travel to Maryland. On January 27, 2020, the Board's Executive Director emailed Appellant asking:

If you still wish to pursue your appeal the Board will need to schedule the hearing in May. Please provide the dates you are available.

I gather from your prior email that you are living and working in South Carolina. Please update your contact information with the Board so that correspondence will reach you in a timely manner.

If you wish to withdraw your appeal please advise the Board.

When there was no response from Appellant the Executive Director sent another email on February 6:

I don't believe I have received a response to my previous email (see below). Please provide the requested dates of availability or advise us if you wish to withdraw your appeal.

After receiving no response to the Board's emails of January 27 and February 6, 2020, the Board issued a Show Cause Order on February 27, 2020, requiring Appellant to provide a statement of such good cause as exists for why the appeal should not be dismissed for failure to prosecute. The statement was to be filed on or before close of business March 11, 2020.

To date, no statement has been filed and Appellant has not communicated in any way with the Board.

Accordingly, it is hereby **ORDERED** that the appeal in Case No. 19-28 be and hereby is **DISMISSED** for failure to comply with the Board's appeal procedures and for failure to prosecute. MCPR § 35-7(b). *See* MSPB Case No. 18-23 (2018); MSPB Case No. 15-19 (2015); MSPB Case No. 09-07 (2009).

For the Board  
March 16, 2020



Harriet E. Davidson  
Chair