

**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. 22-02

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ORDER OF DISMISSAL

Appellant ██████████ electronically filed the above captioned appeal with the Merit System Protection Board (Board or MSPB) on August 4, 2021 and submitted a copy of a Notice of Termination by email on August 12. The Board then emailed a letter to the County and Appellant on August 12 advising the County that its prehearing submission was due on September 14 and that Appellant’s prehearing submission was due on October 6, 2021.

The County filed its prehearing submission on September 9. When Appellant did not timely file his prehearing submission or otherwise contact the Board, Board staff emailed Appellant on October 7, 2021, notifying him of the missed deadline, attaching the August 12 letter, and asking that Appellant advise the Board in writing if he no longer wished to pursue his appeal. After receiving no response, Board staff twice telephoned Appellant on October 11 at the number he had provided and left a voicemail message requesting that Appellant contact the Board’s office. On October 13, the Associate County Attorney for this appeal sent an email to the Board, copying Appellant, stating that she had not received a prehearing submission. That same day Board staff sent another email to Appellant requesting a response. On October 14, Board staff left Appellant yet another telephone voicemail message requesting a response.

When the Board received no response from Appellant it issued an October 18, 2021, Show Cause Order requiring Appellant to provide a prehearing submission or other explanation by October 21. The Order advised that “absent the proper filing of a prehearing submission, the Board will dismiss his appeal.” Board staff again telephoned Appellant on October 19 and left a voicemail message advising him that the Show Cause Order had been emailed to him and urging him to check his email and respond. On October 25, 2021, in a final effort to obtain a response, Board

staff again emailed Appellant. To date, Appellant has not filed a prehearing submission, responded to the multiple emails and telephone voicemail messages from the Board, or contacted the Board in any manner.


Appellant has not responded to the Show Cause Order even though it advised Appellant that absent the proper filing of a prehearing submission, and a finding by the Board of good cause for his failure to timely file the prehearing submission, the Board would dismiss his appeal.

Thus, because Appellant has not provided the prehearing submission or an explanation for that failure, or responded to multiple emails, telephone calls, and a Show Cause Order, the Board must dismiss this matter for failure to comply with established appeal procedures and due to Appellant's failure to prosecute his case. Montgomery County Personnel Regulations, § 35-7(b). *See* MSPB Case Nos. 19-19 & 19-26 (2019); MSPB Case Nos. 19-24 & 19-25 (2019).

Accordingly, it is hereby **ORDERED** that the prehearing conference scheduled for November 3, 2021, is cancelled and the appeal in Case No. 22-02 be and hereby is **DISMISSED**.

If any party disagrees with the decision of the Merit System Protection Board, pursuant to Montgomery County Code, §33-15, *Judicial review and enforcement*, and MCPR, §35-18, *Appeals to court of MSPB decisions*, within 30 days of this Order a petition for judicial review may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed under the Maryland Rules, Chapter 200, Rule 7-202.

For the Board
October 26, 2021


Harriet E. Davidson
Chair