

**BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA**  
**IN THE MATTER OF THE APPEAL OF**  
**QUENETTA C. FENDERSON**

**ORDER**

**July 17, 2019**

This matter came before the Board based upon a Consumer Complaint from the Office of the Attorney General. The Employee is employed at the Alabama Board of Pardons and Paroles ("Board"). The Employee filed the Consumer Complaint on June 6, 2019. The Employee alleged that her Reviewing Supervisor ordered her Immediate Supervisor to lower the Employee's annual performance appraisal score. The Employee alleged that she attempted to file a grievance within the Board's policies but was unable to perfect the filing of the grievance because she felt doing so would result in additional retaliation and create a hostile work environment. The Office of the Attorney General forwarded the Employee's Consumer Complaint to the Alabama State Personnel Board and it was placed on the docket of Administrative Law Judge Randy C. Sallé on or about Monday, June 17, 2019.

A prehearing conference was held on Wednesday, June 19, 2019. The Employee's original Consumer Complaint mentioned multiple individuals employed by the Board, in addition to her Reviewing Supervisor, making it unclear who she wanted to name in her claim of retaliation. The Employee was subsequently ordered to file a More Definite Statement by close of business on

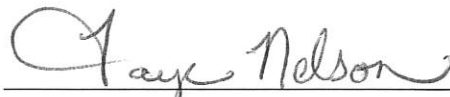
June 21, 2019. The Employee complied with that order. In her More Definite Statement, the Employee asked for a two-step pay increase. The Employee also asked that her June 1, 2018 – June 1, 2019 annual performance appraisal be removed from her records/files “due to the potential negative effect for future raises and advancements within the department.” The Employee asked for a corrected performance appraisal that reflected “a more accurate score.” On June 25, 2019, the Board filed a Motion to Dismiss arguing that the Employee had failed to state a claim upon which relief may be granted. The Board recognized the State Personnel Board’s authority to hear citizen/taxpayer complaints pursuant to Ala. Code § 36-26-27(b); however, the Board argued that the relief sought by the Employee (*i.e.*, a revised performance appraisal and an additional one-step pay increase) is unavailable to her through an action filed under that Code section.


On June 27, 2019, the Employee responded to the Board’s Motion to Dismiss and dropped her request for a modification of her 2018-2019 performance appraisal and increase of her raise. The Employee instead asked for “relief from retaliation from her Reviewing Supervisor (past and future)” noting that if the State Personnel Board were to find in her favor regarding her claim of retaliation “... the remedy, adjustment and/or modification [of her annual performance appraisal score] will more than likely be handled by the appropriate authority.”

Based upon the Employee's More Definite Statement and her response to the Board's Motion to Dismiss, the Employee has not been subjected to repeated acts of retaliation, nor has she established an ongoing pattern of conduct by her Reviewing Supervisor. In fact, the only adverse employment action the Employee alleges is the score she received on her annual performance appraisal, which was rated by her Immediate Supervisor and approved by her Reviewing Supervisor. The Employee did not ask for disciplinary action to be taken against either supervisor, merely that the alleged retaliation by her Reviewing Supervisor cease.

After careful consideration of the Employee's allegations and her request for remedy, it is the recommendation of the undersigned that this cause should be DISMISSED for failure to state a claim for which relief may be granted.

  
\_\_\_\_\_  
JACKIE GRAHAM  
SECRETARY

  
\_\_\_\_\_  
FAYE NELSON  
CHAIR

  
\_\_\_\_\_  
MYRON PENN  
MEMBER

  
\_\_\_\_\_  
EVAN M. THORNTON  
MEMBER



---

DAVID R. MELLON  
MEMBER



---

RACHEL ADAMS  
MEMBER