

ORDER ON PENDING MOTIONS

IN THE MATTER OF THE APPEAL OF:

VERNON HOWARD, Appellant,

vs.

DEPARTMENT OF PARKS AND RECREATION,
and the City and County of Denver, a municipal corporation, Agency.

Appellant has filed a motion for clarification of the June 16, 2011 decision issued in this appeal, and the Agency has requested an extension to file its response to the motion.

This is the appeal of Vernon Howard from the Agency's disqualification decision dated June 16, 2010. After a full hearing on the merits, that decision was reversed. The Agency filed a Petition for Review of that decision to the Career Service Board on June 30, 2011.

As a general rule, once an appeal of a final judgment is filed, the trial court loses jurisdiction over all matters relative to that appeal. Musick v. Woznicki, 136 P.3d 244, 246 (Colo. 2006), citing Colorado Revised Statutes (CRS) § 13-4-102; Molitor v. Anderson, 795 P.2d 266 (Colo. 1990). That principle serves to avoid piecemeal review and promote the finality of judgments as well as the efficient functioning of the judicial system. The analogous concept of exhaustion of remedies serves the same purposes in an administrative setting such as an appeal to the Career Service Hearing Office. Federal Power Commission v. Metropolitan Edison Company, 304 U.S. 375, 383-384 (1938); McKart v. U.S., 395 U.S. 185, 194 (1969); Public Utility Commr. v. Bonneville Power Admn., 767 F.2d 622, 629-630 (9th Cir. 1985), citing Wright, Miller & Cooper.

Since the June 16th decision disposed of all pending claims, leaving nothing to do except execute the judgment, it was final pursuant to Career Service Rule (CSR) § 19-55. See Civil Service Commission v. Carney, 97 P.3d 961, 967 (Colo. 2004). The filing of the Petition for Review placed jurisdiction to resolve the issues raised therein with the Career Service Board.

Order

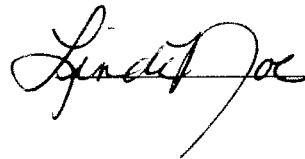
The motions of the Appellant and Agency are denied based on the Hearing Officer's lack of jurisdiction over the appeal during the pendency of the Petition for Review.

DONE August 10, 2011.


Valerie McNaughton
Career Service Hearing Officer

I certify that on Aug. 10, 2011, I delivered a copy of this Order to the following in the manner indicated:

Vern Howard, P.O. Box 200488, Denver, CO 80220	(via U.S. mail)
Whitney Traylor, Esq., wtraylor@traylorlawgroup.com	(via email)
City Attorney's Office at Dfiling.litigation@denvergov.org	(via email)
HR Services, HRServices@denvergov.org	(via email)


Linda Joe