

ORDER DISMISSING APPEAL

IN THE MATTER OF THE APPEAL OF:

JIMMY GRAY, Appellant,

vs.

DEPARTMENT OF SAFETY, DENVER SHERIFF'S DEPARTMENT,
and the City and County of Denver, a municipal corporation, Agency.

On July 7, 2011, an Order to Show Cause issued, commanding the Appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. The Appellant and the Agency filed timely responses, and the matter is now ripe for a decision.

On May 27, 2011, Appellant filed a grievance challenging the Agency's action in denying consideration of his application to take a promotional examination. Both parties appear to agree his application was not received.

The denial of a grievance may be appealed if the denial "results in an alleged violation of the Career Service Rules ("Rules" or "CSR"), City Charter, ordinances relating to the Career Service, executive orders, or written agency policies and negatively impacts the employee's pay, benefits or status." CSR 19-10 A.2.b.i. Leaving aside the question of whether a Rule violation was alleged, the Appellant failed to state sufficiently what impact that decision had on his pay, benefits or status.

The appellant's jurisdictional claim, with respect to the element of pay, benefits or status, requires the resolution, in his favor, of speculative, sequential outcomes, namely: (1) if his application had been accepted by the Career Service Authority (CSA), the entity empowered to conduct testing [CSR 3-5 D]; and (2) if the CSA then accepted his eligibility so that he was placed on an eligibility list; and (3) if he had been selected by the Agency for a finalist interview; and if the Agency had then selected him as the most qualified candidate, only then could he be said to suffered a loss of pay and benefits of the promotional positions. The connective tissue of such a structure is too fragile to support the skeleton of a "negative impact... on his pay, benefits or status. "

Having found the Appellant failed to state a jurisdictional claim under the "pay, benefits or status" element of grievance jurisdiction, I do not reach the remaining claims.

ORDER

This appeal is DISMISSED WITH PREJUDICE

DONE July 20, 2011.


Bruce A. Plotkin
Career Service Hearing Officer

I hereby certify that on July 20, 2011, I delivered a correct copy of the foregoing Order to the following via email:

Jimmy Gray, Jimmy.Gray@denvergov.org	(via email)
Michael T. Lowe, mlowe@bcjipc.com	(via email)
Sally Larsen, slarsen@bcjipc.com	(via email)
Denver City Attorney's Office, dlefilng.litigation@denvergov.org	(via email)
Lili Tran, Lili.Tran@denvergov.org	(via email)

