

IDAHO PERSONNEL COMMISSION
P. O. Box 83720
Boise, Idaho 83720-0066
Phone: (208) 429-5502

IDAHO PERSONNEL COMMISSION

STATE OF IDAHO

MAUREEN KARR,)	
)	
Appellant,)	IPC NO. 01-19
)	
vs.)	ORDER DENYING
)	APPELLANT’S MOTION
DIVISION OF VETERANS SERVICES,)	TO AUGMENT RECORD
STATE OF IDAHO,)	
)	
Respondent.)	
_____)	

On May 10, 2002, Appellant Maureen Karr (“Appellant”) filed a Petition for Review with the Commission, asking the Commission to review the Hearing Officer’s decision filed April 8, 2002, in the above referenced matter. The Commission received the transcript of the hearing before the Hearing Officer and a briefing schedule was established.

On August 23, 2002, Appellant filed her Brief on Petition for Review, along with her Motion to Augment Record. On September 20, 2002, Respondent, Division of Veterans Services, filed Respondent’s Memorandum in Opposition to Appellant’s Petition for Review, along with Respondent’s Opposition to Appellant’s Motion to Augment Record. The Commission took Appellant’s Motion to Augment Record under advisement on the briefs of the parties.

Appellant seeks to augment the record on Petition for Review to include portions of depositional testimony from the depositions of Paul Jeffrey Piper and Gary J. Bermeosolo taken in the course of discovery proceedings in this matter. In moving to expand the record before the Commission, Appellant seeks to submit additional factual evidence to clarify a factual issue she deems relevant to her offer of proof preserved in the record before the Hearing Officer.

Appellant was represented by counsel in the proceedings before the Hearing Officer and nothing in the record demonstrates that Appellant was unable to introduce the depositional testimony into the record before the Hearing Officer or make an offer of proof with respect to the evidence at issue.

The nature of the Idaho Personnel Commission's review on Petition for Review before the full Commission is set out at Idaho Code § 67-5317 and IDAPA 15.04.01.202.03. Idaho Code § 67-5317 provides in pertinent part:

If a petition for review is filed, the personnel commission shall review the record of the proceeding before the hearing officer, briefs submitted in accordance with any briefing schedule it orders, and any transcripts submitted of the hearing below.

IDAPA 15.04.01.202.03 provides:

Nature of Hearing. The hearing of the Commission on a petition for review shall be limited to oral arguments regarding issues of law and fact as may be found in the record established before the hearing officer and any post-hearing orders.

The governing statute and the rules of the Idaho Personnel Commission clearly provide that the Commission, on petition for review, shall consider the record established before the Hearing Officer and do not contemplate the retrial of the matter through the

introduction of documents, exhibits or other evidence not part of the record before the hearing officer.

Appellant's Motion to Augment Record is DENIED.

IT IS SO ORDERED.

DATED THIS day of _____, 2002.

BY ORDER OF THE
IDAHO PERSONNEL COMMISSION

Mike Brassey, Commission Chair

Ken Wieneke, Commissioner

Don Miller, Commissioner

Pete Black, Commissioner

Clarisse Maxwell, Commissioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered to the following parties by the method stated below on this ____ day of _____, 2002.

FIRST CLASS MAIL

John C. Lynn
Lynn, Scott & Hackney, P.L.L.C.
500 West Bannock
Boise, ID 83702

Maurice O. Ellsworth
Special Deputy Attorney General
J. Michael Kulchak
Perry Law, P.C.
2627 W. Idaho St.
P.O. Box 637
Boise, ID 83701-0637

Secretary to Idaho Personnel Commission