

IDAHO PERSONNEL COMMISSION
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IDAHO PERSONNEL
COMMISSION

OCT 19 2010

FILED

IDAHO PERSONNEL COMMISSION
STATE OF IDAHO

SANDRA CREACY-LONG,)	
)	
Appellant,)	IPC NO. 10-31
)	
vs.)	ORDER OF DISMISSAL
)	
IDAHO DEPARTMENT OF CORRECTION,)	
)	
)	
Respondent.)	
_____)	

By Letter of Disciplinary Action dated September 8, 2010 ("LODA") the Idaho Department of Correction ("IDOC") terminated Sandra Creacy-Long's ("Appellant") employment for cause pursuant to IDAPA 15.04.01.190.01 a. and I. (DHR Rule 190.01 a. and I.). A copy of the LODA is attached as Exhibit A, and shows written acknowledgement of receipt by Appellant on September 8, 2010. The LODA provided notice of Appellant's right to appeal her termination within thirty-five (35) calendar days from the date of the letter. See Exhibit A, Section V., Appeal Process.

Appellant appealed her termination to the Idaho Personnel Commission ("IPC"). The appeal was hand-delivered and filed at the IPC office on October 15, 2010. A copy of her appeal is attached as Exhibit B. Appellant's appeal is dismissed pursuant to DHR Rule 201.04. The Commission does not have jurisdiction to entertain this appeal because it is untimely filed.

Idaho Code § 67-5316(2) provides that “[t]he decision or action of the appointing authority shall be final and conclusive unless a classified employee files an appeal within thirty-five (35) days after completing the departmental problem solving or due process procedure . . .”. Idaho Code § 67-5316(2). Upon personal delivery of the LODA to Appellant on September 8, 2010, the departmental due process procedure was completed in this case and the IPC must have physically received Appellant’s appeal within thirty-five calendar days from September 8, 2010 in order for timely filing of the same. DHR Rule 201.03. Thirty-five (35) calendar days from September 8, 2010 (starting the count with September 9, 2010) is October 13, 2010.

For this reason, Appellant’s appeal is hereby DISMISSED.

STATEMENT OF APPEAL RIGHTS

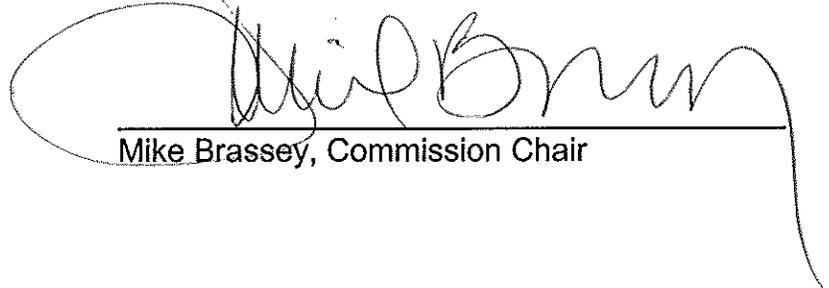
This decision is the final order of the Commission pursuant to IDAPA 15.04.01.201.04 (DHR Rule 201.04). Either party may appeal this decision to the District Court. A notice of appeal must be filed in the District Court within forty-two (42) days of the filing of this decision. Idaho Code § 67-5317(3).

The District Court has the power to affirm, or set aside and remand the matter to the Commission upon the following grounds, and shall not set the same aside on any other grounds:

- (1) That the findings of fact are not based on any substantial, competent evidence;
- (2) That the commission has acted without jurisdiction or in excess of its powers;
- (3) That the findings of fact by the commission do not as a matter of law support the decision. Idaho Code § 67-5318.

DATED THIS 19th day of October, 2010.

BY ORDER OF THE
IDAHO PERSONNEL COMMISSION



Mike Brassey, Commission Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the ORDER OF DISMISSAL in *Sandra Creacy-Long v. Idaho Department of Correction*, IPC Case No. 10-31, was delivered to the following parties by the method stated below on this 19th day of October 2010.

FIRST CLASS MAIL

Sandra Creacy-Long
1423 W. Aberdeen Ave
Nampa, ID 83686

STATEHOUSE MAIL

Idaho Department of Correction
Prisons Division, Idaho State Correctional Institution
Johanna Smith- Warden
Brent Reinke- Director, IDOC



Jeanette Hunt
Secretary to Idaho Personnel Commission