



University of Tennessee, Knoxville
**Trace: Tennessee Research and Creative
Exchange**

Tennessee Department of State, Opinions from the
Administrative Procedures Division

Law

2-2-2011

CANDY L. MINNICK

Follow this and additional works at: http://trace.tennessee.edu/utk_lawopinions



Part of the [Administrative Law Commons](#)

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact administrative.procedures@tn.gov

**BEFORE THE TENNESSEE
CIVIL SERVICE COMMISSION**

IN THE MATTER OF:)
)
)
CANDY L. MINNICK) **DOCKET NO. 26.05-102362J**
)

INITIAL ORDER OF DEFAULT AND DISMISSAL

This matter is before Mattielyn B. Williams, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting for the Tennessee Civil Service Commission. Ms. Teresa Scott Thomas, Staff Counsel, Tennessee Department of Correction, is representing the State. Grievant Candy L. Minnick has been representing herself, but advised by letter of October 20, 2010 that she would be represented by Attorney Dr. Bede Anyanwu, as of November 5, 2010, when Grievant paid her Attorney his retainer.

Grievant Minnick filed the appeal of her termination on March 13, 2009, nearly two (2) years ago.

By Order of January 4, 2011, the Undersigned put Grievant Minnick and her potential Attorney, Dr. Anyanwu, on notice that she would be held in default for failure to participate if she did not contact the Undersigned with an update by January 28, 2011. Neither mail addressed to the Grievant nor mail addressed to Dr. Anyanwu was returned by the Post Office.

As of February 1, 2011, no communication has been received from the Grievant in writing, by telephone, by fax, or by e-mail. Similarly, though active in other Civil Service matters, as of February 1, 2011, no Notice of Appearance nor other

communication has been received from Attorney Anyanwu in writing, by telephone, by fax, or by e-mail, about this particular appeal.

As of February 1, 2011, the anticipated initial conference call, to set the contested case hearing and to learn whether or not the parties are interested in having a separate Mediation ALJ assigned, has neither occurred nor been set.

Therefore, **Grievant** is hereby held in **DEFAULT** for failure to participate in the process of bringing this matter to hearing, pursuant to T.C.A. 4-5-309.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE GRIEVANT THAT THE GRIEVANT HAS BEEN HELD IN DEFAULT FOR THE GRIEVANT'S FAILURE TO PARTICIPATE IN THE PROCESS OF BRINGING THIS MATTER TO HEARING OR APPEAR AT A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. THE GRIEVANT HAS FIFTEEN (15) DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, SUITE 800, WILLIAM R. SNODGRASS BUILDING, 312 ROSA L. PARKS AVENUE, NASHVILLE, TENNESSEE 37243, WITHIN THAT 15-DAY PERIOD. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE GRIEVANT'S FAILURE TO PARTICIPATE/ATTEND. IF SUFFICIENT REASONS ARE GIVEN, THE ORDER MAY BE SET ASIDE AND A NEW HEARING SCHEDULED. IF THE GRIEVANT

DOES NOT REQUEST THE DEFAULT TO BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-4469.

Should good cause exist for the Grievant's failure to participate/appear, the Grievant may move to have the Default Set Aside within fifteen (15) days.

ORDER

The Grievant requested the hearing in this matter. Although the State bears the burden of proof, as a practical matter, discovery cannot occur and a hearing date can not be set without the Grievant's cooperation and participation.

It is Grievant who is seeking to change the status quo and return to her position as a State employee. In the absence of a settlement or a contested case hearing in which the Grievant prevails, the Grievant remains terminated from her position with the Tennessee Department of Correction.

In light of twenty-two (22) months of delay overall and failure to respond to the January 4th Order, it is **ORDERED** that Grievant Candy L. Minnick's Fifth Step Appeal is hereby **DISMISSED**.

This Order will be mailed to both Grievant Minnick and Attorney Anyanwu, since Grievant's representation appears uncertain.

This Initial Order entered and effective this 2nd day of February, 2011.

Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State
this 2nd day of February, 2011.

Thomas G. Stovall, Director
Administrative Procedures Division