

civil service commission

BOARD OF REVIEW AND APPEALS



Commissioners

Don Becker
Alyse M. Lazar
J. William Little
Haywood Merricks III
James Vandenberg

**MINUTES OF
SPECIAL MEETING
WEDNESDAY, AUGUST 22, 2012
9:30 a.m.
County of Ventura Government Center
LOWER PLAZA ASSEMBLY ROOM
(800 S. Victoria Avenue, Ventura, CA 93009)**

Chair Vandenberg called the meeting to order at 9:31 a.m. Present were Chair Vandenberg, Commissioners Becker, Little and Lazar, Cheryl Shaw, Commission Assistant, and Bob Boehm, Law Advisor.

- I. **OLD BUSINESS** – Request received from William Markov (Case Number 10-221-13-01) dated July 18, 2012, for reconsideration of decision rendered by the Civil Service Commission on July 16, 2012. (Continued from July 26, 2012)

Present for the Ventura County Public Defender's Office was Matthew Smith, Assistant County Counsel. Mr. Markov's attorney, Stephen Silver appeared telephonically. Chair Vandenberg indicated that the parties' papers have been received and reviewed by the Commission.

Mr. Silver indicated that he feels that the Commission's Order did not reflect what the Superior Court indicated in its writ as the Commission was ordered to hear the request that the Commission rescind Mr. Markov's reduction in pay until the Public Defender afforded him the procedural safeguards outlined in the rules. The decision should not have then been that there is a lack of jurisdiction but should have reflected an outright denial of Mr. Markov's request to rescind the reduction in pay.

Mr. Smith argued that the Commission was only required to decide whether to hold the hearing. The Commission complied with the writ in that the Commission determined that the actions taken by the County did not require good cause and did not require due process so the Commission lacked jurisdiction. He further reiterated that in the very first petition filed by Mr. Markov, all the same arguments being made before the Commission were made to the court. The first action the court took was to send the matter back to the Commission to make a threshold decision. Any litigation that may go forward at this point will now be a review of the Commission's decision.

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Mr. Silver stated that although he primarily agrees with the points made by Mr. Smith, he disagrees with what he feels the court ordered in the writ and the Commission's decision does not address the issue of whether to grant or deny the petitioner's request.

Mr. Boehm pointed out that the Commission's Order is quite clear in that they are resting their finding on a lack of jurisdiction based on the arguments made by the attorneys. Mr. Silver indicated that the Order should then reflect a denial of Mr. Markov's request. Mr. Boehm responded to Chair Vandenberg's inquiry on the options that the Commission has when receiving a request.

In response to Commissioner Becker's question, Mr. Silver stated he felt it was important to clarify the Order to avoid further and future arguments that would be made in superior court which would deflect from the true issue. Mr. Smith stated he felt the Commission's Order reflected its decision and does not believe there is any further action necessary to be taken by the Commission.

The Commission went into closed session for deliberations beginning at 9:54.

The Commission re-opened the meeting at approximately 10:18 a.m.

On motion made by Commissioner Little, seconded by Commissioner Lazar, the Commission voted to deny the petitioner's request for reconsideration of the Order served July 27, 2012 (Commissioner Becker abstaining.) The petitioner failed to meet his burden of proof under Personnel Rule 2319. The Commission has clearly complied with the superior and appellate court orders on whether or not to grant the petitioner a hearing on his request to rescind the reduction in pay until the public defender affords him the procedural safeguards set forth in the Personnel Rules. The legal and factual basis for that determination on that question is contained in the Commission's Order served July 27, 2012.

The meeting was adjourned at 10:25 a.m.