

State of New Hampshire

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PERSONNEL APPEALS BOARD

State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF DAVID GAGNON Response to Appellant's Motion for Reconsideration Docket #90-T-6

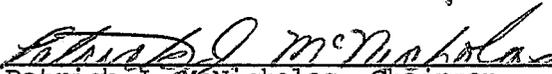
June 6, 1991

The New Hampshire Personnel Appeals Board (McNicholas, Bennett and Rule) met Wednesday, May 22, 1991, to consider the appellant's Motion for Reconsideration of the Board's May 2, 1991 decision upholding David Gagnon's discharge from employment.

Upon review of the record in the instant appeal, the Board found that no new evidence or argument was offered which had not already been properly raised and addressed in the hearing on the merits. Accordingly, the Board voted unanimously to deny the appellant's Motion for Reconsideration. In so doing, the Board notes that in termination appeals by probationary employees, the appellant must prove by a preponderance of the evidence that the agency's decision was illegal, arbitrary, capricious, or made in bad faith. The appellant failed to carry his burden and the appeal was denied accordingly.

The Board voted unanimously to affirm its order of May 2, 1991, finding that YDC acted within its discretion in discharging Mr. Gagnon from his employment prior to completion of his probationary period.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


Mark J. Bennett


Lisa A. Rule

cc: Ronald Adams, Superintendent, Youth Development Center
Michael C. Reynolds, SEA General Counsel
Ann F. Larney, Civil Bureau - Attorney General's Office
Virginia A. Vogel, Director of Personnel

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APPEAL OF DAVID GAGNON
Docket #90-T-6
and
APPEAL OF BRIAN JEAN
Docket #90-T-7

New Hampshire Youth Development Center

May 2, 1991

Please note, the record in the matters of Gagnon and Jean is to be held under seal. The Board's Order dated May 2, 1991 is not to be released for publication.

Mr. Gagnon's appeal was denied.

Mr. Jean's appeal was granted.

FOR THE PERSONNEL APPEALS BOARD

A handwritten signature in cursive script that reads "Mary Ann Steele".

MARY ANN STEELE
Executive Secretary

cc: Virginia A. Vogel, Director, Division of Personnel
Ann F. Larney, Attorney, Civil Bureau - Office of the Attorney General
Ronald G. Adams, Superintendent, Youth Development Center
Michael C. Reynolds, SEA General Counsel.