

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

89-179 Appeal of Laurent Drouin & a.

In Case No. ....

August 18, 1989

the court upon .....made the following order:

Appeal from administrative agency is declined. See Rule 10(1).

Distribution:

- Michael C. Reynolds, Esquire
- Audrey Blodgett, Esquire
- Personnel Appeals Board
- Donna R. Craig, Supreme Court
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Ralph H. Wood,

Clerk

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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

### REQUEST FOR RECONSIDERATION

APPEAL OF LAURENT DROUIN, WAYNE CASSAVAUGH AND ROBERT MILLER  
New Hampshire Department of Corrections

At its meeting of March 29, 1989, the Personnel Appeals Board, Commissioners Cushman, Scott and McNicholas sitting, reviewed the request for reconsideration in the above-captioned appeal. That request was filed on the appellants' behalf by SEA Field Representative Stephen J. McCormack on February 10, 1989.

Upon review of the request<sub>1</sub> and the Board's decision of January 27, 1989, the Board voted unanimously to affirm its original decision<sub>1</sub> denying the request for reconsideration and award of retroactive pay. The Board affirmed its findings that the reallocation decision affecting Unit Managers I, II and III was not based upon material changes in position duties and responsibilities, but upon an agreement between the Department of Corrections and the Division of Personnel to establish a single classification of Unit Manager to allow periodic rotation of incumbents "through units of varying responsibility without requiring temporary promotions and demotions" of the incumbents.

The appellants argued in their request for reconsideration that "an employee's position or class is reallocated or reevaluated upward only because of a definite change in job content or because of an error in original establishment." The Board does not agree. The Rules of the Division of Personnel require that the Director of Personnel make periodic investigation of and adjustments to position classifications and allocations. When such adjustment is made because of material changes in responsibilities or because of an error in original establishment, salary adjustments for the employees affected are accomplished pursuant to the provisions of Per 304.01 (g) or Per 304.01 (g)(1).

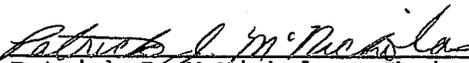
The Director's decision in consolidating the titles of Unit Manager I, II and III, as confirmed by the findings of the Board<sub>1</sub> provided for creation of a single classification of Unit Manager to provide for future rotation of incumbents between units at the Department of Corrections effective July 3, 1987. Thus, the Board confirmed its findings that the resulting reallocation was neither the result of material changes in the positions nor from an error in original establishment of the classifications of Unit Manager I, II or III.

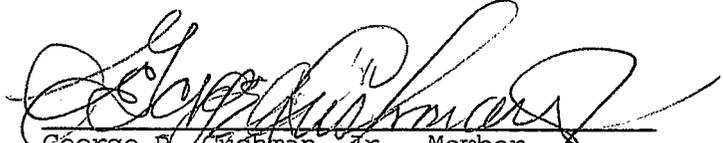
REQUEST FOR RECONSIDERATION

Appeal of Laurent Drouin, Wayne Cassavaugh and Robert Miller  
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Based upon the foregoing, the Board voted unanimously to deny the request for reconsideration.

THE PERSONNEL APPEALS BOARD

  
Patrick J. McNicholas, Chairman

  
George R. Cushman, Jr., Member

DATED: March 31, 1989

cc: Stephen J. McCormack  
SEA Field Representative

Virginia A. Vogel  
Director of Personnel

Richard Greenwood, Human Resource Coordinator  
Department of Corrections

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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### APPEAL OF WAYNE CASSAVAUGH, LAURENT DROUIN AND ROBERT MILLER January 27, 1989

On Tuesday, November 22, 1988, the Personnel Appeals Board, Commissioners Cushman, Brickett and Platt sitting, heard oral argument in the retroactive pay appeals of Wayne Cassavaugh, Laurent Drouin and Robert Miller, employees of the Department of Corrections. SEA Field Representative Stephen J. McCormack appeared on behalf of the appellants. Virginia A. Vogel, Director of Personnel, appeared on behalf of the State.

Based upon the information provided, the Board made the following findings. On October 22, 1986, the appellants requested upgrading of their positions from Unit Manager I, salary grade 19 to salary grade 24. The former Director of Personnel denied that request. On December 24, 1986, SEA Field Representative Stephen McCormack filed with the Personnel Appeals Board a hearing request on behalf of Wayne Cassavaugh and Laurent Drouin stating that, "the above referenced individuals [wish] to appeal a denial of upgrading dated December 11, 1986.... A hearing is requested at your earliest convenience."

On June 3, 1987, Personnel Director Virginia Vogel wrote to Corrections Commissioner Ronald Powell proposing that the positions of Unit Manager I, II and III be consolidated into a single classification of Corrections Unit Manager, salary grade 23. The decision to so consolidate those positions was based upon an agreement between the Department of Corrections and the Division of Personnel to allow for "strategic rotation" of Unit Manager incumbents which would not require promotion or demotion between the levels of Unit Manager I, II and III when incumbents were transferred from one unit to another. Effective July 3, 1987, all positions of Unit Manager were consolidated into a single level at salary grade 23. Notice of the decision, including the effective date of same, was forwarded to the appellants.

By letter dated July 20, 1987, the Appeals Board wrote to Mr. McCormack notifying him that the classification appeal of Messers. Cassavaugh and Drouin had been tentatively scheduled for December 8, 1987. The Board's records indicate that Mr. McCormack requested withdrawal of the classification appeal pending before the Board since their positions had been upgraded to salary grade 23.

On March 7, 1988, SEA Field Representative McCormack filed a request with the Board for a hearing on behalf of Laurent Drouin, Robert Miller and Wayne Cassavaugh. In his request, Mr. McCormack stated, "The issue is a matter of proper retroactive compensation for the period of October 22, 1986 through July 2, 1987." According to Mr. McCormack's request, "The paychecks received on August 14, 1987 reflected the proper salary grade, Salary Grade 23, but not

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the proper retroactive pay. Retroactive pay was only paid back to July 3, 1987." He indicated that he had written to Personnel Director Virginia Vogel to address the matter of proper retroactive compensation on August 20, 1987 and that as of March 7, 1988 he had received no response, thus prompting his appeal to the Board.

In reviewing the matter pending before the Board, the Board determined that there was no evidence of material changes in the position responsibilities of the appellants to warrant retroactive compensation for work they performed in 1986. The appellants stated that their duties and responsibilities were no different in 1986 than they were when the Director notified the Department of Corrections and the employees affected that their positions would be consolidated at salary grade 23 effective July 3, 1987. The Board found that the consolidation of the positions was to permit the rotation of Unit Managers through units of varying responsibility without requiring temporary promotions and demotions.

Based upon the foregoing, the Board voted unanimously to deny the appeals of Messrs. Drouin, Cassavaugh and Miller, finding that they were not eligible for retroactive compensation; that the reallocation of their positions to Unit Manager, salary grade 23, was not a result of material changes in the position duties or responsibilities; and that the appellants, through their representative, had withdrawn their original upgrading appeal.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE  
Executive Secretary

cc: Stephen J. McCormack, SEA Field Representative

Ronald L. Powell, Corrections Commissioner

Virginia A. Vogel, Director of Personnel