

**STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
OFFICE OF PUBLIC HEARINGS**

**21 Grand Street, 3rd Floor, Hartford, CT 06106
Tel.: (860) 541-3452 Fax.: (860) 246-5301**

www.state.ct.us/chro

**Paul Cayer,
Complainant** : **Case No. OPH/WBR: 2003-001**

v.

**James Roach, Charles Spiridon
and Ellen Durnin,
Respondents** : **December 6, 2005**

ARTICULATION OF DISMISSAL

I

PRELIMINARY STATEMENT

The Complainant, Paul Cayer (hereinafter "Complainant"), appeared pro se. Assistant Attorney General Joseph Jordano appeared on behalf of James Roach, Charles Spiridon, Ellen Durnin and Western Connecticut State University (hereinafter "Respondents"). The Complainant resides at 173 Old Burrville Road, Torrington, CT 06790. The Respondents are located at 181 White Street, Danbury, CT 06810.

On October 12, 2005, the complaint was dismissed as orally stated on the record at the Public Hearing ("Hearing") and all parties were notified of the dismissal by email on that date, in accordance with Regulations of Connecticut State Agencies § 4-61dd-15(d). The Complainant acknowledged the notice of the dismissal as evinced by his

emails dated November 23, 28 and 29, 2005. This Articulation of Dismissal confirms and memorializes the previously ordered final decision stated orally on the record on October 12, 2005.

II

PROCEDURAL HISTORY

On June 9, 2003, the Complainant filed a complaint, OPH/WBR No. 2003-001, with the Chief Human Rights Referee at the Office of Public Hearings. He alleged that the Respondents retaliated against him in violation of General Statutes § 4-61dd when he reported acts of wrongdoing by the Respondents. On June 10, 2003, the Office of Public Hearings issued to all parties of record the Notice of Hearing and Initial Conference along with a copy of the complaint. The Respondents filed an answer to the complaint on June 18, 2003.

The Complainant amended his complaint on June 30, 2003 to add an additional Respondent, Western Connecticut State University. On July 10, 2003, the Respondents filed an answer to the amended complaint. On October 16, 2003, the Complainant amended his complaint a second time to add further allegations of retaliation. On October 28, 2003, the Respondents filed a Motion to Dismiss and on November 19, 2003, the Complainant filed a response to the Motion to Dismiss. On December 12, 2003, the Presiding Human Rights Referee granted the Motion to Dismiss in part and denied it in part. The Presiding Referee's ruling set forth the scope of the Public Hearing in that only those alleged acts of wrongdoing by the Respondents that the Complainant reported to the Auditors of Public Accounts were to be adjudicated. The Complainant's other claims were dismissed.

On December 30, 2003, the parties agreed to stay the proceedings until disposition of the Complainant's federal court case and it was so ordered by the Presiding Referee. As of March 2, 2005, the Complainant's federal court case had yet to be disposed of and on that day, the Presiding Referee ordered the stay lifted. The present case was scheduled for a hearing commencing on October 11, 2005 and to continue for approximately thirty days. The Hearing on the above-captioned matter was held on October 11 and 12, 2005. On October 12, 2005, the complaint was dismissed pursuant to Regulations of Connecticut State Agencies § 4-61dd-15(c)(3) for the reasons set forth herein. References made to the transcript pages are designated as "Tr." with the accompanying page numbers to follow.

III DISCUSSION

At the pretrial on September 28, 2005, the undersigned directed the Complainant that when he testifies pro se at the Hearing, he is to present the question, then pause to allow for an objection before answering the question and then to proceed as directed by the Presiding Referee. Those directions were given to the Complainant again at the Hearing on October 12, 2005. Tr. 274, 279. The Complainant also was told that he would be allowed to read his questions during his testimony, but not allowed to read his answers to the questions. Tr. 274.

At the Hearing, the Complainant approached the witness stand with a stack of documents approximately eight inches in height in order to testify on direct examination of his case in chief. The Complainant did not have his direct examination questions pre-written, but instead stated that he needed to view the documents in his possession to

formulate his questions. Tr. 274-6, 279. The undersigned shared the Respondents' concern about whether the Complainant may have read his answers from these documents instead of testifying from his memory. In order to accommodate the Complainant and be fair to the Respondents, the undersigned directed the Complainant to tell the Respondents which document he was viewing before asking the question and then to ask the question, pause and answer. The Complainant then stated that his understanding was that he could "read" the document or review it and then ask his questions. The Complainant was obviously not prepared and it would have taken an inordinate amount of time for the direct examination to proceed as he requested.

Therefore, the undersigned asked the Complainant how much time he would need to formulate his list of questions; he responded "a couple of hours." It was approximately 10:25 a.m. at that time. The Complainant was directed to write down his questions during the recess and return at 12:30 p.m. Tr. 280. The Hearing was recessed for two hours and scheduled to resume at 12:30 p.m. in order for the Complainant to begin his direct testimony using his questions he would have formulated during the recess. Tr. 276, 280.

At 12:30 p.m. on October 12, 2005, the Hearing resumed, but the Complainant did not return to begin his direct examination. During the recess, the Executive Secretary of the Commission on Human Rights and Opportunities, Lisa Mims, informed the undersigned that the Complainant spoke to her and informed her that he would be leaving and would not return to the Hearing at 12:30 p.m. Tr. 281. The Complainant in fact did not return to the Hearing, which adjourned at 12:45 p.m. Tr. 283.

IV
CONCLUSION AND ORDER

The Complainant failed to appear at the Hearing after a recess was taken as ordered. Therefore, the complaint was DISMISSED on the record on October 12, 2005 pursuant to Regulations of Connecticut State Agencies § 4-61dd-15(c)(3). Tr. 282.

So Ordered this _____ day of December 2005.

The Honorable Donna Maria Wilkerson
Presiding Human Rights Referee

- c. Joseph A. Jordano, Assistant Attorney General
Mr. Paul Cayer
James Roach, President
Charles Spiridon, Dean of Human Resources
Ellen Durnin, Dean of Graduate Studies
Western Connecticut State University