

11-30-04

STATE OF FLORIDA  
DIVISION OF RETIREMENT

FILED

WESLEY PETTY,

Petitioner,

vs.

DEPARTMENT OF MANAGEMENT  
SERVICES, DIVISION OF RETIREMENT

Respondent.

2004 DEC 30 P 1:48

Final Order No. DMS - 04-104  
DIVISION OF  
ADMINISTRATIVE  
DOAH Case No. 04-3058  
DMS No. 04-02098

AT

RSC-CWS

FINAL ORDER

This cause came before me for the purpose of issuing a final agency order. The Administrative Law Judge, Robert S. Cohen, assigned by the Division of Administrative Hearings (DOAH) in the above entitled cause submitted a Recommended Order and all exhibits offered into evidence to the Department of Management Services. A copy of that Recommended Order is attached hereto and made a part hereof as "Exhibit A."

PRELIMINARY STATEMENT

Mr. Wesley Petty began working for Dixie County on August 18, 1995. In January of 1998 Dixie County first reported Mr. Wesley Petty for retirement purposes. Because the county had reported Mr. Petty but not enrolled him in the retirement system, the Division of Retirement ("Division") investigated to determine whether Mr. Petty was filling an established position and was, therefore, eligible for membership. Subsequent to its review of available information, the Division determined that Mr. Petty was eligible for retirement service credit beginning November 18, 1996. The Division denied Mr. Petty service credit from August 18, 1995 through November 17, 1996. Mr. Petty filed a petition for hearing and the case was referred to the Division of Administrative Hearings.

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Administrative Law Judge, Robert S. Cohen, held a formal hearing in the above-styled case on October 12, 2004, in Cross City, Florida.

At the hearing, Petitioner presented the testimony of Howard Reid, Joseph Ruth, and Arthur Bellot and offered no exhibits into evidence. Petitioner failed to appear at the final hearing. Respondent presented the testimony of Cathy Smith and Monica Jones and offered Exhibit Nos. 1 through 7 into evidence.

A Transcript was filed on October 27, 2004. Also on October 27, 2004, Respondent filed a Motion to Reopen the Record and Motion Offering New Evidence for the Record, which was granted after Petitioner filed no response, thereby adding Respondent's Exhibit No. 8 to the record.

A Recommended Order was issued November 30, 2004, which is incorporated by reference into this Final Order.

#### STATEMENT OF THE ISSUES

The issue in this case is to determine whether Wesley Petty should receive retirement service credit from August 18, 1995 through November 17, 1996.

#### FINDINGS OF FACT

The Division of Retirement accepts the Findings of Fact set forth in the Recommended Order.

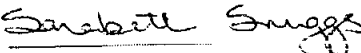
#### CONCLUSIONS OF LAW

The Division of Retirement accepts the Conclusions of Law as set forth in the Recommended Order.

ORDER

Based on the foregoing, it is hereby ORDERED AND DIRECTED that the Florida Division of Retirement DENIES the request of the Petitioner, Wesley Petty for service credit in the Florida Retirement System from August 18, 1995 through November 17, 1996.

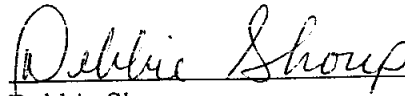
DONE AND ORDERED this 29<sup>th</sup> day of December 2004, in Tallahassee, Leon County, Florida.

  
SARABETH SNUGGS  
DIRECTOR OF RETIREMENT  
DIVISION OF RETIREMENT  
CEDARS EXECUTIVE CENTER  
BUILDING C  
2639 NORTH MONROE STREET  
TALLAHASSEE, FL 32399-1560  
(850) 488-5541

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF MANAGEMENT SERVICES, 4050 ESPLANADE WAY, SUITE 260, TALLAHASSEE, FLORIDA 32399-0950, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

I HEREBY CERTIFY that this Final Order was filed in the official records of the Department of Management Services, and copies distributed by U.S. Mail to the parties below, on the 29<sup>th</sup> day of December, 2004.



Debbie Shoup

Clerk

Department of Management Services

Copies furnished to:

Judge Robert S. Cohen  
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