

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

JOCELYN MATHIS, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 06-3673  
 )  
 DEPARTMENT OF LAW ENFORCEMENT, )  
 CRIMINAL JUSTICE STANDARDS AND )  
 TRAINING COMMISSION, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECOMMENDED ORDER OF DISMISSAL

This cause came on to be heard before P. Michael Ruff, duly-designated Administrative Law Judge on January 29, 2007, in Tallahassee, Florida. The appearances were as follows:

APPEARANCES

Petitioner: No Appearance

Respondent: Grace A. Jaye, Esquire  
Department of Law Enforcement  
Post Office Box 1489  
Tallahassee, Florida 32302-1489

STATEMENT OF THE ISSUE

The issue in this proceeding concerns a dispute as to whether the Petitioner successfully passed the State Officers Certification Examination, and specifically, a dispute involving the wording of certain examination questions.

PRELIMINARY STATEMENT

This cause arose upon notification to the Respondent Agency by the Petitioner, on August 31, 2006, that she was contesting a number of questions and the scoring on the Certified Corrections Officer State Examination. On August 14, 2006, the Petitioner had been notified by the Agency that her challenges or concerns regarding the State Officer Certification Examination had been reviewed and that no changes in credit or the overall results of her examination would be effected. The Petitioner consequently requested a hearing to contest that Agency initial decision.

The case was, in due course transmitted to the Division of Administrative Hearings and the undersigned for proceeding.

The case came on for hearing as noticed on January 29, 2007. Upon convening the hearing the Petitioner failed to make an appearance. The Petitioner has the burden of proof on the issues raised and referenced above. The Respondent entered its appearance in the person of Ms. Grace Jaye, Esquire, attorney for the Respondent. The Respondent was prepared with its evidence and witnesses to conduct the hearing.

Upon waiting in excess of 40 minutes for the Petitioner to appear, and receiving comment on the record from persons in the hearing room, from the Respondent Agency, who had made a search for the Petitioner in the DeSoto Building (the hearing site), and in the immediate proximity of that building, it was apparent

that the Petitioner was not present. Consequently, after waiting this extended period of time with no appearance by the Petitioner, and inasmuch as the Petitioner was served with notice at her last-known address of record, Post Office Box 1753, Lynn Haven, Florida 32444, it was determined that her case and burden of proof failed for lack of prosecution and the hearing was adjourned.

#### CONCLUSIONS OF LAW

1. The Division of Administrative Hearings has jurisdiction of the subject matter of and the parties to this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2006).

2. The Petitioner contesting her score on the above-referenced examination bears the burden of proving that the credit allowed and the scoring or scoring method for the grading on the examination, and the contested portions of the examination, was erroneous. The Petitioner, did not, however, appear in this proceeding and thus presented no evidence in support of her position in this controversy. The Petitioner was served with notice at the last-known address of record. Because she did not appear and because there has been no communication from the Petitioner to indicate that any difficulty in attending the noticed hearing had arisen, it must be concluded that the Petitioner's case and burden of proof fails for lack of prosecution. Consequently, it is determined that this case

should be dismissed for lack of prosecution and for lack of evidence to support the Petitioner's Petition and her contentions regarding the scoring of her examination.

RECOMMENDATION

Having considered the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED: That a final order be entered by the Florida Department of Law Enforcement, Criminal Justice Standards and Training Commission, dismissing the Petition filed herein in its entirety for lack of prosecution and lack of evidence in support thereof.

DONE AND ENTERED this 1st day of March, 2007, in Tallahassee, Leon County, Florida.



---

P. MICHAEL RUFF  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675 SUNCOM 278-9675  
Fax Filing (850) 921-6847  
www.doah.state.fl.us

Filed with the Clerk of the  
Division of Administrative Hearings  
this 1st day of March, 2007.

COPIES FURNISHED:

Grace A. Jaye, Esquire  
Department of Law Enforcement  
Post Office Box 1489  
Tallahassee, Florida 32302-1489

Michael Ramage, General Counsel  
Florida Department of Law Enforcement  
Post Office Box 1489  
Tallahassee, Florida 32302-1489

Gerald Bailey, Commissioner  
Florida Department of Law Enforcement  
Post Office Box 1489  
Tallahassee, Florida 32302-1489

Jocelyn Mathis  
Post Office Box 1753  
Lynn Haven, Florida 32444

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.