

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FILED

2009 AUG 14 P 1:34

DIVISION OF
ADMINISTRATIVE
HEARINGS

GLORIA MARSHALL,

Petitioner,

vs.

Case No. OGC 08-13796
DOAH CASE No. 08-3716

DEPARTMENT OF MANAGEMENT SERVICES,
DIVISION OF RETIREMENT,

Respondent.

_____ /

DEPARTMENT OF MANAGEMENT SERVICES
DIVISION OF RETIREMENT'S
ORDER CLOSING FILE

Petitioner filed an Amended Notice of Voluntary Dismissal Without Prejudice on July 13, 2009, with the Division of Administrative Hearings. Based on the Amended Notice of Voluntary Dismissal Without Prejudice, the Division of Administrative Hearings issued an Order Relinquishing Jurisdiction and Closing File, a copy of which is attached. (See Exhibits A & B attached). Petitioner has no further point of entry in the administrative proceedings and the Department of Management Services, Division of Retirement, now lacks jurisdiction to consider the claim. In view of the Order from the Division of Administrative Hearings, the Department of Management Services hereby closes its file in this case.

DONE and ORDERED at Tallahassee, Leon County, Florida, this 11 day of

August, 2009.



Linda H. South, Secretary
Department of Management Services
4050 Esplanade Way
Tallahassee, Florida 32399-0950
(850) 488-2786

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this order closing file 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 160, 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this Order Closing File was filed in the official records of the Department of Management Services and copies were furnished to: Larry D. Scott, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950; Jane M. Letwin, Esquire, 5426 SW 25th Avenue, Fort Lauderdale, Florida 33312, and Judge Claude B. Arrington, Division of Administrative Hearings, the DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, this 12th day of August, 2009.

Debbie Shoup TJS
Debbie Shoup
Clerk
Department of Management Services
(850) 487-1082

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GLORIA MARSHALL,

Petitioner

CASE NO: 08-3716
JUDGE ARRINGTON

v.

DEPARTMENT OF MANAGEMENT
SERVICES, DIVISION OF
RETIREMENT.

Respondent.

PETITIONER'S AMENDED NOTICE OF VOLUNTARY DISMISSAL
WITHOUT PREJUDICE

PETITIONER, GLORIA MARSHALL, through undersigned counsel, hereby files this AMENDED PETITIONER'S NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE, on the following grounds:

1. Petitioner Marshall is not working for the employer since June of 2008, when she retired after a long career as an employee of the Broward County School Board. Most of the documents to be used in this petition are already in possession of Respondent and the attorney for Petitioner.
2. Petitioner patiently and conscientiously worked as an adult ed teacher from 1981 through 2005, a period of some twenty four years.



3. In view of the relationship between the Respondent and Petitioner, who has been enrolled several times in the FRS, Petitioner contends that the Respondent exercise its fiduciary duty to act in the best interests of the member by not opposing this dismissal without prejudice.
4. Petitioner contends that no prejudice to Respondent will result.
5. No expenses have been incurred thus far other than the transmission of employment records by the Respondent to undersigned counsel, and those will not change. If a plan has been proposed for the case by Respondent, that plan can be laid aside and will serve the same purpose in the future.
6. In light of the circumstances which prevail, to insist on the prosecution of this petition at this time will not serve the interests of justice.
7. Petitioner has indicated that she is unable to assist in this petition until the month of December 2009.
8. In addition, the goal sought in these proceedings is a very precious one, that is, a pension and social security fund which will influence the comfort or lack thereof of this petitioner's last years, and is worthy of the Court's indulgence in acknowledging this dismissal without prejudice.

BASED ON THE FOREGOING recitation of facts, Petitioner files this Amended Notice of Voluntary dismissal without prejudice.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been fax-filed with the Department of Administrative Hearings and e-mailed to 850 922 6312, to Larry D. Scott, Esq., Asst. General counsel to DMS, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950 Eleventh day of July, 2009.

LAW OFFICE OF JANE M. LETWIN
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By Jane M. Letwin
Jane M. Letwin