

**COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD**

JASON GALOFARO,

Petitioner-Appellant

v.

**MIDDLESEX COUNTY RETIREMENT SYSTEM
&
PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION,**

Respondents-Appellees

CR-21-0207

DECISION

On September 29, 2023 an administrative magistrate of the Division of Administrative Law Appeals (“DALA”) issued a decision affirming the Middlesex County Retirement System’s (“MCRS”) reduction of Petitioner Jason Galofaro’s creditable service as a call firefighter. The Contributory Retirement Appeal Board (“CRAB”) received a mailed copy of the DALA decision and several unredacted exhibits from the proceedings which had been postmarked on October 13, 2023. CRAB construed this letter as the Petitioner’s notice of objection and we acknowledged its receipt on October 23, 2023 and provided all parties with copies of our Standing Order 2008–1 (Standing order Concerning Appeals from the Division of Administrative Law Appeals).

The Petitioner’s supplemental filings were initially due November 8, 2023. As a courtesy to the Petitioner and due to CRAB’s delayed acknowledgment of his objection, CRAB provided Mr. Galofaro an additional forty days to prosecute his appeal as required by Standing Order 2008–1 ¶ 4.a(3). In CRAB’s correspondence we provided a comprehensive explanation of Mr. Galofaro’s filing obligations and explicitly directed him to “please send an email...noting how many additional days are needed,” if further time was required. (CRAB’s Email to Parties, Dec. 6, 2023).

On January 2, 2024, having not received any response from the Petitioner nor additional filings, counsel for MCRS emailed CRAB to determine if we also had not received anything further. The Petitioner responded to this inquiry the following week purporting to have “requested extended time” to seek legal representation. CRAB responded to both MCRS Attorney Gibson and Mr. Galofaro the next day confirming that we had “not received any further filings from the Petitioner, nor has the CRAB Chair received an extension request” the Petitioner had alluded to. Mr. Galofaro was again directed to provide “a specific date for an extension to be allowed”. Furthermore, CRAB reminded the Petitioner that “further noncompliance with CRAB’s Standing Order may result in dismissal of this appeal.” (CRAB’s Email to Parties, Jan. 9, 2024). A copy of our Standing Order was attached to this reply for the Petitioner’s convenience.

Having not received any reply from the Petitioner to our correspondence from earlier that month, CRAB issued an Order of Conditional Dismissal January 26, 2024. In our Order we conditionally dismissed this appeal pending a response from the Petitioner “showing good cause for the delay” and provided him fourteen days to do so.

Mr. Galofaro responded by email February 1st. He noted that he had “someone to consider looking into [his] case” but could not provide a deadline for when such review would be completed. In an effort to assist Mr. Galofaro, a *pro se* Petitioner, complete his filing requirements, CRAB’s Chair replied the following day seeking further details:

“Upon receipt of your email below, I am seeking clarification from you to better assist you. Kindly please inform CRAB whether this email is in response to CRAB’s Order. Please also inform CRAB whether you have obtained legal counsel to represent you in this appeal. If so, please have your attorney file a Notice of Appearance. Third, please clarify whether you are seeking additional time to complete your filing requirements. If so, please state how much time is needed and the specific reasons for requesting this additional time. To better assist you, parties seeking an extension of time generally request an additional 30 days to complete their filing requirements.”

We have not received any response from the Petitioner. Accordingly, this appeal is dismissed for failure to prosecute.¹

¹ The adjudicatory discretion to dismiss an appeal is “critical to the orderly and expeditious disposition of cases and the calendar as a whole.” *Bucchiere v. New England Tel. & Tel. Co.*, 396

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD

Uyen M. Tran

Uyen M. Tran
Assistant Attorney General
Chair
Attorney General's Appointee

Nicolle M. Allen

Nicolle M. Allen, Esq.
Governor's Appointee

Did not participate

Patrick M. Charles, Esq.
Public Employee Retirement
Administration Commission Appointee

Date: July 3, 2024

Mass. 639, 641, 488 N.E.2d 1, 2 (1986). While dismissing a matter exercises the most severe sanction that may be brought against a party prosecuting an appeal, "[l]itigants must act with reasonable diligence to bring their litigation to a final conclusion. Because of the volume of litigation pending before all levels of the judicial branch, it is essential that it devote its time and efforts to those litigants who prosecute their cases with reasonable diligence, and that it deny further consideration of cases which the litigants have unreasonably failed, neglected or refused to prosecute." *State Realty Co. of Bos. v. MacNeil Bros. Co.*, 358 Mass. 374, 379, 265 N.E.2d 85, 88-89 (1970).