Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	)	
	)	
Hina L. Rodriguez,	)	
	)	
Complainant,	)	PERB Case No. 06-U-38
	)	Slip Op. No. 954
	)	
v.	)	
	)	**MOTION FOR RECONSIDERATION**
District of Columbia Metropolitan Police Department,	)	
	)	
Respondent.	)	

DECISION AND ORDER

I. Statement of the Case

This matter involves a Motion for Reconsideration ("motion") filed by Hina L. Rodriguez ("Complainant"), a police officer. The Complainant is requesting that the Board reconsider its decision in the above-captioned case. Specifically, the Complainant is requesting that the Board "vacate its Decision and Order [(Slip Op. No. 906)], issued on January 30, 2008, dismissing the Complaint." (Motion at p. 2). In the alternative, the Complainant requests that the Board "remand the case for additional investigation and hearing pursuant to D. C. Code § 1-605.02(3), (7), (11) and (12)." (Motion at p. 1).

In Slip Op. No. 906, the Board found that the Complainant's reassignment was not retaliatory in nature. (See Slip Op. No. 906 at p. 8). Specifically, the Board adopted "the Hearing Examiner's finding that the Complainant [failed to demonstrate] that [District of Columbia Metropolitan Police Department's] motivation was pretextual." (Slip Op. No. 906 at p. 8). Therefore, the Board concluded that the reassignment was for a legitimate business reason and dismissed the Complaint. (See Slip Op. No. 906 at p. 9). In her Motion, the Complainant asserts that the Board erred when it adopted the Hearing Examiner's finding that her reassignment was not unlawful. As a result, the Complainant is requesting that the Board reconsider and vacate Slip Op. No. 906. The Metropolitan Police Department ("MPD" or "Respondent") filed an opposition to the Motion.

II. Background

The Complainant is a police officer employed by MPD. In December 2000 she was detailed from the Seventh District to the Major Narcotics Branch, now the Narcotics and Special Investigations Division ("NSID"). Specifically, she was assigned as an acting Investigator/Detective in the Financial Investigation Unit/Asset Forfeiture Division ("FIU/AFD"). In FIU/AFD, the Complainant performed administrative duties such as working on asset forfeitures, seizure of money connected to narcotics and guns, and initiating warrants for bank accounts. She continued to encumber a position in the Seventh District while performing her detail. In 2002, the Complainant's superiors encouraged her to apply for a transfer to an officer position in the Strike Force, within the same command as FIU/AFD, as a personnel mechanism to facilitate her continued detail in the FIU/AFD. The Complainant applied for the Strike Force officer position in 2002 only for the purpose of being transferred into NSID and thus continue her work in the FIU/AFD. (See Slip No.906 at p. 3).

"In August 2005, a new commander, Commander Thomas McGuire, was assigned to NSID. He found serious problems with the unit, including personnel working out of classification. He instructed his five (5) lieutenants to determine how officers had come to work in detective positions." (Slip Op. No. 906 at p. 2. Also, see Hearing Examiner's Report and Recommendation at p. 4). The inquiry revealed that officers were performing detective work and detectives were performing officer work. Commander McGuire concluded that organizational restructuring was needed to properly match personnel assignments with their job descriptions. (See Slip Op. No. 906 at pgs. 4 and 11).

"On October 20, 2005, the Complainant filed a group grievance with the Chief of Police alleging a violation of the collective bargaining agreement Article 26 - 'Temporary Details and Acting Pay' ". . . The grievants were officers seeking detective's contractual rate of pay for performing detective duties for over 90 days. In January 2006, the Complainant was reassigned within FIU/AFD to work in the Strike Force." (Slip Op. No. 906 at p. 2). As a result of her reassignment, the Complainant filed an unfair labor practice complaint ("Complaint") alleging that MPD violated D.C. Code § 1-617.04(a)(1) and (4) and D.C. Code § 1-617.06 by: (1) discriminating against her with regard to hiring or tenure of employment; and (2) unlawfully transferring her from her position in retaliation for filing a grievance. (See Compl. at p. 2).

A hearing was held and the Hearing Examiner issued a Report and Recommendation ("R&R") recommending that the Complaint be dismissed. The Complainant filed Exceptions and Amended Exceptions. In response, MPD filed an Opposition to the Complainant's Exceptions.

In Slip Op. No. 906 the Board found that it had jurisdiction over the Complainant's allegation that her reassignment was in retaliation for filing a grievance. (See Slip Op. No. 906 at p. 3). Specifically, the Board noted that it had jurisdiction over the allegation because the claim involved

"an alleged statutory violation and not a contractual violation." (Slip Op. No. 906 at p. 3). Having determined that the Board had jurisdiction, the Board focused on the merits of the case and concluded that the "Hearing Examiner's determinations that the Complainant [did] not demonstrate[] that the [] reassignment was unlawful and that the unfair labor practice complaint should be dismissed [were] reasonable, and supported by the evidence and consistent with Board precedent." (Slip Op. No. 906 at p. 9). Therefore, the Board adopted the Hearing Examiner's recommendation that: (1) there was no violation of the Comprehensive Merit Personnel Act ("CMPA"); and (2) the complaint should be dismissed in its entirety. (See Slip Op. No. 906 at p. 9).

The Complainant filed a Motion for Reconsideration requesting that the "Board vacate its decision, issued on January 30, 2008 . . . adopt[ing] the Report and Recommendation . . . of the Hearing Examiner in this matter . . . or, in the alternative, remand the case for additional investigation and hearing pursuant to D.C. Code § 1-605.02(3), (7), (11) and (12)." (Motion at p. 1). MPD filed an opposition to the Complainant's motion. The Complainant's motion and MPD's opposition are before the Board for disposition.

III. Discussion

The first issue to be determined is whether the Complainant's "motion for reconsideration" was timely filed.

Board Rule 559.1, 559.2, 501.4, 501.5 and 501.16 provide as follows:

> **559.1 - Board Decision**
> The Board Decision and Order shall become final thirty (30) days after issuance unless the order specifies otherwise.
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> **559.2 - Board Decision** (cont.)
> *The Board's Decision and Order shall not become final if any party files a motion for reconsideration within ten (10) days after issuance of the decision,* or if the Board reopens the case on its own motion within ten (10) days after issuance of the decision, unless the order specifies otherwise. (Emphasis added).
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> **501.4 - Computation - Mail Service**
> Whenever a period of time is measured from the service of a pleading, and service is by mail, five (5) days shall be added to the prescribed period.

> **501.5 - Computation - Weekends and Holidays**
> *In computing any period of time prescribed by these rules, the day on which the event occurs from which time begins to run shall not be included.* If the last day of a prescribed period falls on a Saturday, Sunday or District of Columbia holiday, the period shall extend to the next business day. *If a prescribed time period is less than eleven (11) days, Saturday, Sundays, and District of Columbia holidays shall be excluded from the computation.* Whenever the prescribed time period is eleven (11) days or more, such days shall be included in the computation. (Emphasis added).
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> **501.16 - Method of Service**
> Service of pleadings shall be complete on personal delivery during business hours, depositing of the message with a telegraph company, charges prepaid, depositing the document in the United States mail, properly addressed, first class postage prepaid, or by facsimile transmission.

In the present case, the Board issued Slip Opinion Number 906 on January 30, 2008 and the opinion was served on that date to the parties by facsimile and first-class mail. Pursuant to Board Rule 559.2, 501.5 and 501.16, the Complainant's motion had to be filed in this case no later than the close of business on February 13, 2008.[1] The Complainant's motion was transmitted to the Board via facsimile on February 13, 2008. Therefore, consistent with Board Rule 559.2 and 501.5, we find that the Complainant's motion was timely filed.[2]

Having determined that the Complainant's motion was timely filed, we will now focus on the merits of the Complainant's motion. In her motion, the Complainant asserts that the Hearing Examiner and the Board erred when they found "that the Complainant did not demonstrate that [her]

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[1]Pursuant to Board Rule 501.5, the beginning date for computing the ten (10) day period was January 31, 2008. Therefore, the ten day period ended on February 13th .

[2] Even though the Decision and Order contained the language "final upon issuance", this fact does not foreclose the Complainant from filing a "motion for reconsideration" if it is done in a timely manner. (See *District of Columbia Department of Human Services and Fraternal Order of Police/Department of Human Services Labor Committee*, 52 DCR 1623, Slip Op. No. 717 at fn. 9, PERB Case Nos. 02-A-04 and 02-A-05 (2005)).

reassignment was unlawful." (Motion at p. 3). In support of her position the Complainant asserts the following:

> In this motion, Complainant seeks to have the Board reconsider their previous ruling [in Slip Op. No. 906], especially in light of the examination of the Record, when examined in the context of the findings as to Element #2 and Element #3 analysis of the appropriate basis for prima facie case as discussed by the Board in Doctors' Council of the District of Columbia v. D.C. Commission on Mental Health Services, 47 DCR 7568, Slip Op. No. 636 at p. 3, PERB Case No. 99-U-06 (2000). This matter involves a Motion for Reconsideration filed by Complainant Grievant Hina Rodriquez in regards to the Board's decision in this matter. The Complainant is requesting that the Board vacate its Decision and Order issued on January 30, 2008, dismissing the Complaint.
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> The District of Columbia has a strong policy, located in D.C. Code § 1-607.1 of protecting all employees of the District government in their right to "form, join or assist a labor organization or to refrain from this activity." Id. The District of Columbia has also intended that such employees "be protected in the exercise of these rights." Id. Pursuant to D.C. Code § 1-617.02, the Board was vested with the "resolution of unfair labor practice proceedings." Id. The Board, as you know, has been granted significant leeway by the City Council to investigate and hear unfair labor practice cases. With that discretion, the Board should also err on the side of additional investigation rather than dismissal, especially when important facts, like those at present, are brought to light.
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> The Hearing Examiner erred by disregarding all of the evidence establishing the elements of "knowledge" and "animus." Counsel respectfully submits that when a finder of fact makes a conclusive determination that no evidence had been produced to support Complainant's claims of unfair labor practices, this is error. The Board's decision to adopt the Hearing Examiner's findings and recommendations without a complete review of the evidence that was disregarded by the hearing examiner is also error.
>
> Complainant respectfully requests that the Board reconsider its decision in the above captioned case, issued January 30, 2008, and

> vacate its order adopting the findings and recommendation of the hearing examiner. Complainant believes that a thorough review of the record evidence in this case will demonstrate unequivocally that Commander McGuire had knowledge of the Complainant's protected activity and that the Respondent acted with animus in reassigning the Complainant as a result of her engaging in protected activity.
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> Complainant believes that the Hearing Examiner has completely disregarded substantial credible evidence which unequivocally establishes that the Respondent acted with knowledge of the Complainant's protected activity and with animus and therefore committed an unfair labor practice. The fact that the Hearing Examiner found that the Complainant presented "no evidence . . . to rebut [Respondent's] non-discriminatory explanation" demonstrates that the Hearing Examiner made a clear, reversible error in reviewing the evidence. This error was compounded by the Board's decision to adopt the Hearing Examiner's findings without a complete review of the disregarded evidence. The Hearing Examiner's determinations were unreasonable, not supported by or consistent with either the record or Board precedent and Complainant asks that the Board reverse its decision dismissing the unfair labor practice complaint. (Motion at pgs. 1-4, emphasis in original).

In its Opposition to the Complainant's Motion, MPD counters that:

> PERB Rule 520.14 provides that "[t]he Board shall reach its decision upon a review of the entire record and "may adopt the [Hearing Examiner's] recommended decision to the extent that it is supported by the record." Respondent submits that there is no evidence to support Complainant's allegations that the Board failed to consider the complete record in this matter and that the Hearing Examiner's decision was not supported by a complete evidentiary record. To the contrary, Complainant's fifteen-page Motion for Reconsideration merely reiterates the facts and arguments previously presented in her "Exceptions and Amended Exceptions to Hearing Examiner's Report of Findings" and considered by the Hearing Examiner. Substantively, the request for reconsideration is little more than Complainant's strenuous expression of disagreement with the Hearing Examiner's findings and conclusions. This, the Board has firmly held, is an insufficient basis for disturbing the Hearing Examiner's evidentiary

findings. Doctors' Council of the District of Columbia v. D.C. Commission on Mental Health Services, 47 DCR 7568, Slip Op. 636 at p. 4, PERB Case No. 99-U-06 (2000). Also see, American Federation of Government Employees, Local 872 v. D.C. Dept. of Public Works, 38 DCR 6693, Slip Op. No. 266, PERB Case Nos. 89-U-15, 89-U-01, 89-U-16, 89-U-18 and 90-U-04 (1991).

The Hearing Examiner's well-articulated analysis, findings and recommendations clearly demonstrate careful and thorough consideration of all the evidence presented. The Board has held that "issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner." Doctors' Council at p. 4; Tacey Hatton v. FOP/DOC Labor Committee, 47 DCR 769, Slip Op. No. 451, at p. 4, PERB Case No. 95-U-02 (1995); University of the District of Columbia Faculty Association/NEA v. University of the District of Columbia, 39 DCR 6238, Slip Op. No. 285, PERB Case No. 86-U-16 (1992); and Charles Bagenstone, et al. v. D.C. Public Schools, 38 DCR 4154, Slip Op. No. 270, PERB Case Nos 88-U-33 and 88-U-34 (1991). "This is precisely the function of the Hearing Examiner; to determine issues of credibility and to judge the sufficiency of the evidence." Doctors' Council, at p. 4.

Here, Complainant simply disagrees with the Hearing Examiner's interpretation of the evidence, arguing that it is illogical and unreasonable. The arguments presented mirror those previously raised in Complainant's Exceptions and Amended Exceptions to Hearing Examiner's Report of Findings. These arguments were considered and rejected. Additionally, Complainant has failed to raise any new issues. See, American Federation of State, County and Municipal Employees, District Council 20, Local 2095, et al. and District of Columbia Commission on Mental Health, 48 DCR 10978, Slip Op. No. 658, PERB Case No. 01-AC-01 (2001) and Hagans v. American Federation of State, County and Municipal Employees, District Council 20, Local 2073, 48 DCR 8141, Slip Op. No. 654, PERB Case Nos. 99-U-26 and 99-S-06 (2001).

Consequently, there is absolutely no basis for a reversal of the Board's January 30, 2008 decision or cause for a remand for additional testimony as Complainant seeks. (Opposition at pgs. 1-2).

The Complainant's arguments were considered and rejected by the Board in Slip Op. No. 906. Specifically, we stated the following:

> The Complainant takes exception to the Hearing Examiner's finding that MPD had no knowledge of her filing a grievance and that there was no evidence of animus by MPD against the Complainant. Specifically, the Complainant takes exception to the Hearing Examiner's finding that Commander McGuire had no knowledge that she filed a grievance. In support of this claim, the Complainant asserts that there was evidence in the record, not relied upon by the Hearing Examiner, that Lieutenant Nunnaly discussed with two officers, Officer Pena and Detective Gerrish, that the Complainant was going to be moved from her unit because she had participated in the grievance process. (See Exceptions at p. 15). The Complainant further contends that "there is also circumstantial evidence which demonstrates the obvious nature of the actions that took place in this matter by Respondent." (Exceptions at p. 2, Amended Exceptions at pgs. 6-13). Additionally, the Complainant argues that it was illogical for the MPD to remove her from her unit and place her in an assignment where she had no experience. (See Exceptions at p. 6). In support of this argument, the Complainant maintains that the following set of facts show that her transfer was retaliatory: (1) "the strange procedures used by the Department in intentionally not notifying the Complainant about her reassignment" (Exceptions at p. 10); (2) she received no response from upper level management to her letter requesting a written explanation for her "transfer" (Exceptions at p. 10); and (3) MPD had asserted that the Complainant's reassignment was based on the needs and demands of the Agency as assessed by Commander McGuire, but these needs were never explained. (See Exceptions at p. 11). The Complainant requests that the Board either reverse the Hearing Examiner's findings or, in the alternative, remand the case for additional investigation and hearing. (See Exceptions at p.1). The Complainant also requests oral argument before the Board. (See Exceptions at p. 14).
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> MPD counters in its Opposition that the Complainant never applied for an investigator/detective position. (See Opposition at p. 13). Also, MPD contends that there is no requirement to give a written explanation for a reassignment that is within the same division. (See Opposition at pgs. 6, 13-14). Furthermore, MPD claims that the

"evidence supports [its] position that Officer Rodriguez' assignment to the Strike Force, the position for which she applied and was selected, was based upon Commander McGuire's decision to place members in their appropriate positions and not because of any act of reprisal or retaliation for filing a grievance." (Opposition at p. 9). The Respondent maintains that Commander McGuire exercised a management right to reassign employees when he ordered that staff be moved into positions appropriate to their job classification. Finally, MPD asserts that the evidence does not support the Complainant's argument that MPD retaliated against her by changing her assignment for filing or participating in the filing of a grievance. (See Opposition at p. 9).

As previously noted, the Complainant challenges the Hearing Examiner's findings that Commander McGuire had no knowledge of her filing a grievance when he ordered her reassignment. (See Exceptions at pgs. 5, 11-12; Amended Exceptions at pgs. 1, 4, 9-10). She also takes exception to the Hearing Examiner's findings concerning the testimony of Officer Pena and Detective Gerrish and Lieutenant Nunnaly. (See Exceptions at p. 13; Amended Exceptions at pgs.18-20). The Complainant would have us adopt her interpretation of the witnesses' testimony and the Hearing Examiner's findings on the elements of knowledge and animus. However, this Board has held that "issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner." *Tracy Hatton v. FOP/DOC Labor Committee*, 47 DCR 769, Slip Op. No. 451 at p. 4, PERB Case No. 95-U-02 (1995). Furthermore, challenges to a hearing examiner's findings, "based on competing evidence" do not give rise to a legitimate exception. *Ware v. D.C Dep't of Consumer and Regulatory Affairs,* 46 DCR 3367, PERB Slip Op. No. 571 at p. 3, PERB Case No. 96-U-21 (1998). Therefore, the Complainant's disagreement with the Hearing Examiner's findings is not a sufficient basis for setting aside his findings. The Complainant has not shown that Commander McGuire was aware that she had filed a grievance. We adopt the Hearing Examiner's findings that Commander McGuire first asked his lieutenants to move the staff into positions appropriate to their job classifications when he first arrived at the NSID and that he had no knowledge that the Complainant had filed a grievance when he ordered the reassignment of personnel to their appropriate job

descriptions. (See R&R at pgs. 4, 10-11).

The Complainant also argues that there is "evidence in the record not relied upon by the Hearing Examiner" to support her allegation that MPD violated the CMPA. (Amended Exceptions at pgs. 7-11). We have held that challenges to a Hearing Examiner's findings based on competing evidence do not give rise to a proper exception where, as here, the record contains evidence supporting the Hearing Examiner's conclusion. See, *Clarence Mack v. D.C. Dept. Of Corrections*, 43 DCR 5136, Slip Op. No. 467, PERB Case No. 95-U-14 (1996) and *American Federation of Government Employees, Local 872 v. D.C. Dept of Public Works*, 38 DCR 6693, Slip Op. No. 266, PERB Cases No. 89-U-15, 89-U-16, 89-U-18 and 90-U-04 (1991). Thus, we conclude that the Hearing Examiner's finding that the Complainant's reassignment was not retaliatory in nature, is reasonable and supported by the record.

The Complainant's other exceptions center on the Hearing Examiner's findings pertaining to the MPD's motivation in ordering her reassignment. The Board has acknowledged that "[d]etermining motivation is difficult. Therefore a careful analysis must be conducted to ascertain if the stated reason for the reassignment is pretextual. The employment decision must be analyzed according to the 'totality of the circumstances'. Relevant factors include a history of anti-union animus, the timing of the action, and disparate treatment." *Doctors Council of the District of Columbia v. D.C. Commission on Mental Health Services*, 47 DCR 7568, Slip Op. No. 636 at p. 3, PERB Case No. 99-U-06 (2000), citing *NLRB v. Nueva,* 761 F.2d 961, 965 (4th Cir. 1985)." (R&R at p. 9). We note that the Hearing Examiner determined as follows: "Although the temporal proximity between the grievance and the reassignment reasonably may have caused Complainant to suspect the two events were linked [the filing of the grievance and her reassignment], . . . no evidence was produced by Complainant to rebut [MPD's] non-discriminatory explanation for its action or demonstrate that it was pretextual." (R&R at pgs. 11-12). Further, the Hearing Examiner found no evidence of animus toward the Complainant. (See R&R at p. 11). Also, he determined that the reassignments were made division-wide and included officers who had not filed a grievance. (See R&R at p. 11). This does not support a finding of disparate treatment by MPD. In view of the above, we

adopt the Hearing Examiner's finding that the Complainant has not shown that MPD's motivation was pretextual. Rather, the reassignment was for a legitimate business reason.

Under *Wright Line*, 251 NLRB 1083 (1980), enf'd. 662 F.2d 889 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), the moving or complaining party has the initial burden of establishing a *prima facie* case by showing that the union activity or other protected activity was a "motivating factor" in the employer's disputed action. That accomplished, the burden shifts to the employer to demonstrate that the same disputed action would have taken place notwithstanding the protected activity. In considering whether the Complainant made a *prima facie* case, the Hearing Examiner determined that the Complainant failed to show that the person who ordered the reassignment knew that she filed a grievance. The Hearing Examiner found this to be fatal to the Complainant's position, as the motivation for ordering the reassignment could not have been retaliation for filing the grievance.

Furthermore, the Hearing Examiner found that the Respondent's actions were based on a legitimate management right to reassign employees who were working outside of their position descriptions. This supports our conclusion that, under the circumstances of this case, the same disputed action would have taken place notwithstanding the protected activity.

Other than the Complainant's disagreement with the credibility findings of the Hearing Examiner, her exceptions merely repeated arguments concerning MPD's alleged knowledge of her protected activity and the motivation for her reassignment. These arguments were presented to and rejected by the Hearing Examiner. The Board has held that a mere disagreement with the Hearing Examiner's findings is not grounds for reversal of the findings where they are fully supported by the record. *See, American Federation of Government Employees, Local 874 v. D.C. Department of Public Works*, 38 DCR 6693, Slip Op. No. 266, PERB Case Nos. 89-U-15, 89-U-18 and 90-U-04 (1991). A review of the record reveals that the Hearing Examiner's determinations that the Complainant has not demonstrated that the reassignment was unlawful and that the unfair labor practice complaint should be dismissed are reasonable, and supported by the

> evidence and consistent with Board precedent. Therefore, we adopt the Hearing Examiner's finding that the Respondent was exercising a legitimate statutory management right under the CMPA at D.C. Code § 1-617.08.
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> Pursuant to D.C. Code § 1-605.02(3) and Board Rule 520.14, we find that the Hearing Examiner's findings and conclusions are reasonable, supported by the record and consistent with Board precedent. Therefore, we adopt the Hearing Examiner's recommendation that: (1) there has been no violation of the CMPA; and (2) the complaint should be dismissed in its entirety. (Slip Op. No. 906 at pgs. 6-9).

In light of the Board's thorough analysis in Slip Op. No. 906, it is clear that the arguments raised by the Complainant in the instant motion were made, considered, and rejected in Slip Op. No. 906 by evidence of the above language. Thus, the Complainant's request for reconsideration is merely a disagreement with the Board's determination in this case. The Board has repeatedly held that a motion for reconsideration cannot be based upon mere disagreement with its initial decision. (See *AFGE Local 2725 v. District of Columbia Department of Consumer and Regulatory Affairs and Office of Labor Relations and Collective Bargaining*, _DCR_, Slip Op. No. 969, PERB Case No. 06-U-43 (2009); see *D.C. Department of Human Services and Fraternal Order of Police Department of Human Services Labor Committee*, 52 DCR 1623, Slip Op. No. 717, PERB Case Nos. 02-A-04 and 02-A-05 (2003); see *D.C. Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee (Shepherd)*, 49 DCR 8960, Slip Op. No. 680, PERB Case No. 01-A-02 (2002); see *AFSCME Local 2095 and AFSCME NUHHCE and D.C. Commission on Mental Health Services*, 48 DCR 10978, Slip Op. No. 658, PERB Case No. 01-AC-01 (2001).

In addition, the Complainant has failed to provide any authority which compels reversal of the Board's decision in Slip Op. No. 906. Instead, the Complainant attempts to convince the Board that Slip Op. No. 906 should be vacated because the Board should err on the side of additional investigation rather than dismissal, especially when facts, like those Complainant identifies exist.

In light of the above, we find that the Complainant's motion fails to establish a statutory basis for reversal of the Board's Decision and Order in Slip Op. No. 906. Therefore, the Board denies Complainant's Motion for Reconsideration of the Board's Decision and Order in Slip Op. No. 906.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complainant's Motion for Reconsideration is denied.

2. Pursuant to Board Rule 559.3, this decision is final on issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

July 8, 2010

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 06-U-38 was transmitted via Fax and U.S. Mail to the following parties on this the 8th day of July 2010.

Brenda S. Wilmore, Esq.
Director, Labor Relations Division
Metropolitan Police Department
300 Indiana Ave., N.W., Suite 4126
Wahington, D.C. 20001

VIA FAX & U.S. MAIL

John Berry, Esq.
Attorneys at Law
1990 M Street, N.W., Suite 610
Washington, D.C. 20036

VIA FAX & U.S. MAIL

Mark Viehmeyer, Director
Office of Labor Relations Representative
Metropolitan Police Department
300 Indiana Avenue, N.W., Room 4126
Washington, D.C. 20001

VIA FAX & U.S. MAIL

Courtesy Copy

Hina Rodriquez
5802 8th Street, N.W.
Washington, D.C. 20011

U.S. MAIL

for Julio Castillo
Sheryl V. Harrington
Secretary