

STATE OF WISCONSIN

BOARD OF PERSONNEL

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ROBERT YOUNG, \*\*

Appellant, \*\*

vs. \*\*

WILBUR J. SCHMIDT, SECRETARY \*\*

DEPARTMENT OF HEALTH AND \*\*

SOCIAL SERVICES, \*\*

Respondent. \*\*

#567

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# OFFICIAL

## ORDER

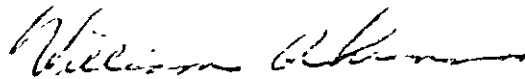
The Board having made and issued its Findings of Fact and Conclusions of Law enters the following Order:

1. That the action of the respondent by Frank Newgent, Administrator, Division of Family Services, State Department of Health and Social Services, in terminating the employment of the appellant effective January 3, 1972, be and the same is hereby sustained and affirmed.

2. It is further ordered that the appellant's appeal from such dismissal be and the same is hereby ordered dismissed on its merits.

Dated at Madison, Wisconsin this 11<sup>th</sup> day of May, 1973.

STATE PERSONNEL BOARD, By



William Ahrens, Chairman

STATE OF WISCONSIN

BOARD OF PERSONNEL

ROBERT YOUNG,

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Appellant,

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vs.

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WILBUR J. SCHMIDT, SECRETARY  
DEPARTMENT OF HEALTH AND  
SOCIAL SERVICES,

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Respondent.

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# OFFICIAL

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

The above-entitled matter has been heard before the State Personnel Board on April 14, 1972; July 17, 1972; August 30, 1972; August 31, 1972; November 1, 1972; November 2, 1972; November 3, 1972; November 14, 1972. The Board hearings were held on the following dates with the participating Board members present. April 14, 1972: John H. Shiels, Chairman, Jerry Slechta, Charles Brecher, William Ahrens. John Serpe was absent. July 17, 1972: William Ahrens, Chairman, Charles Brecher, John Serpe. Jerry Slechta was absent. August 30, 1972: William Ahrens, Chairman, Charles Brecher, John Serpe. August 31, 1972: William Ahrens, Chairman, Charles Brecher, John Serpe. November 1, 1972: William Ahrens, Chairman, Charles Brecher, John Serpe, Percy L. Julian, Jr. November 2, 1972: William Ahrens, Chairman, Charles Brecher, John A. Serpe, Percy L. Julian, Jr. November 3, 1972: William Ahrens, Chairman, Charles Brecher, John A. Serpe, Percy L. Julian, Jr. November 14, 1972: William Ahrens, Chairman, John A. Serpe, Percy L. Julian, Jr. Charles Brecher was absent. It was agreed by and between the parties that Board Member John Serpe having been absent at the initial hearing held April 14, 1972, be permitted to participate in the decision herein by reading the transcript of that hearing and further participate in all subsequent hearings. It was further stipulated that Board Member Charles Brecher was absent only for the meeting of November 17, 1972, and that he likewise be permitted to participate in the Board determination by reading the transcript of that hearing. It was further stipulated by and between the parties that Board Member Percy L. Julian, Jr. be permitted to participate in the decision

in the matter herein by reading the transcript of the hearings of April 14, July 17, August 30, and August 31 and upon attending all meetings thereafter. The appellant having appeared at all times personally and by his attorney, Ted M. Warshafsky; and the respondent having appeared by Milton M. Varsos, Chief Psychologist, Division of Family Services, and by James R. Pleyte, Counsel, Department of Health and Social Services; and the Board having heard the proofs, examined the exhibits and the transcripts of the testimony of the parties, makes and files the following Findings of Fact and Conclusions of Law, constituting its decision in this matter:

#### FINDINGS OF FACT

1. The appellant, Robert Young, was a classified employe, employed by the State Department of Health and Social Services, Division of Family Services, at the Milwaukee District Office. He commenced his employment May 18, 1970, in the classification of Psychologist 3, Salary Range 1-15, and after the completion of a six-month probationary period, acquired permanent status on November 19, 1970.

2. That Milton Varsos was Division Chief Psychologist situated in Madison, Wisconsin, and was responsible for the professional supervision of the appellant.

3. That the appellant was assigned to the Milwaukee District Office and his immediate administrative supervisor was one Mr. Holton, Chief of Specialist Services of the Milwaukee Office.

4. That the primary duty of a psychologist in a district or regional office is to perform clinical psychological testing of clients receiving service from the Division of Family Services, and to timely make reports thereof to the social worker who is in charge and responsible for providing case work services for such client.

5. Within the Milwaukee district most clients requiring psychological evaluations consisted of minor children who were formally in the custody and control of the Department of Health and Social Services, or referred by county welfare departments.

6. That on January 3, 1972, the appellant was given a letter from Frank Newgent, Administrator, Division of Family Services, State Department of Health and Social Services, advising the appellant that his services were to be terminated effective January 3, 1972.

7. That the stated reasons for the termination of the appellant's employment were:

(a) That the appellant's work output was below par and that the results thereof were of questionable validity and that they were not timely made to be of value to the social worker involved and that the appellant required constant supervision in the performance of his duties.

(b) That the appellant failed to utilize supervision and follow the directives of his immediate supervisors and comply with existing agency rules and regulations.

(c) That the appellant failed to keep regular office hours and that he failed to properly account for the use of his working time and failed to follow the expressed request of Mr. Varsos, the Chief Psychologist, in the manner and methods by which his work was to be performed.

(d) That the appellant had maintained poor relationships with many of the other staff members and that he used derogatory terms and critical language of social workers and other staff members and that on occasion was given to outbursts of anger and he failed to control and conduct himself in a disciplined, professional-like manner.

8. Based on all of the received exhibits and direct testimony in this matter, the Board finds to a reasonable certainty, by the greater weight

of the credible evidence, that just cause exists for the termination of the appellant's employment in that:

(a) He failed to promptly administer psychological examinations when requested and furnish timely reports thereof to the appropriate social worker.

(b) He failed to punctually maintain office hours when requested and allocate and coordinate work time as required to quantitatively complete the requested psychological tests.

(c) He failed to advise his supervisor or secretary of his deviation from his scheduled activities.

(d) He failed to cooperate with supervisory direction to restrict his job duties to clinical testing.

(e) He failed to administer and score diagnostic tests in the manner directed by his supervisor.

(f) He failed to schedule diagnostic tests so that they can be concurrently scored and evaluated.

(g) He failed to maintain cordial working relationships with fellow staff members and expressed a distrust of the staff social workers.

(h) He failed to accept supervisory control and was unwilling to accept criticism and constructive direction by his superiors.

(i) He failed to recognize the limitations prescribed on his job responsibilities and encroached upon the responsibilities of the staff

9. That although the appellant is a professional employe, it was the prerogative of his supervisors to require him to follow agency directives in maintaining office hours and contribute to a harmonious atmosphere in working with his fellow employes.

10. The record does not substantiate any conclusion or inference that the appellant's discharge was motivated by any direct or indirect racial considerations.

#### OPINION

The Board recognizes the previous decision of the case of Ferrito v. Klotsche, Provost, University of Wisconsin-Milwaukee, Case No. 187, January 13, 1967, wherein it stated that "When none of the incidents of misconduct are important or significant when considered alone, each may be most significant when the employe's entire work record is considered. It so often happens in labor-management relations, that the impressive reason for imposition of discipline is not the catalyst, but rather it is the "last straw" that leads the appointing officer to the conclusion that he can no longer put up with the employe. He can put up with so much, but not more. That is the basis for the rule that an employe's entire record may be considered. We do not understand that it is reprehensible to keep a "work record" on employes or to single out those who may be suspect." In applying this principle to the instant case, it appears abundantly clear to the Board that viewing the appellant's entire work record as a whole, adequate, sufficient, and just cause is most apparent for the imposition of the disciplinary act of termination of employment.

The Board having entered the foregoing Findings of Fact and Opinion enters the following:

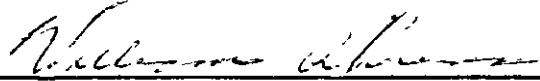
#### CONCLUSIONS OF LAW

1. That the findings in paragraph 8 individually and collectively constitute just cause for the discharge for the termination of the appellant's employment and his discharge therefrom and is hereby sustained and affirmed.

2. That the appellant's appeal from his discharge be and the same is hereby dismissed on its merits.

Dated at Madison, Wisconsin this 11th day of June, 1973.

STATE PERSONNEL BOARD, By

  
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William Ahrens, Chairman

Board Members Brecher and Serpe  
concur in these findings.  
Board Member Julian dissents  
therefrom.