STATE OF WISCONSIN

STATE PERSONNEL BOARD

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MACK MCCARTER,

Appellant,

v.

SECRETARY, DEPARTMENT OF ADMINISTRATION,

Respondent.

Case No. 77-156

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OFFICIAL

ORDER

Before: James R. Morgan, Calvin Hessert and Dana Warren, Board Members.

The respondent has moved to dismiss this appeal for lack of subject matter jurisdiction and in the alternative to decline to exercise discretion under Article IV, Section 10, of the contract between the state and the WSEU. In a declaratory ruling, in re request of AFSCME, etc., Wis. Pers. Bd. No. 75-206, this board determined that it does have jurisdiction pursuant to Article IV, §10, of the contract. Although the board there indicated that it would decline to exercise that jurisdiction where the appeal is frivolous on its face, the appellant here has submitted a signed statement which alleges, in part, racial discrimination. The respondent argues that this is a conclusory allegation. However, the appellant does allege, among other things that 6 black employes have been terminated or forced to resign by DOA at the Hill Farms State Office Building in the last year. Based on the entire record it is concluded that the appeal is not frivolous on its face.

The motion to dismiss is denied and this appeal is to be scheduled for hearing in due course.

Dated: 12-12, 1977

STATE PERSONNEL BOARD

James R. Morgan, Chairperson