

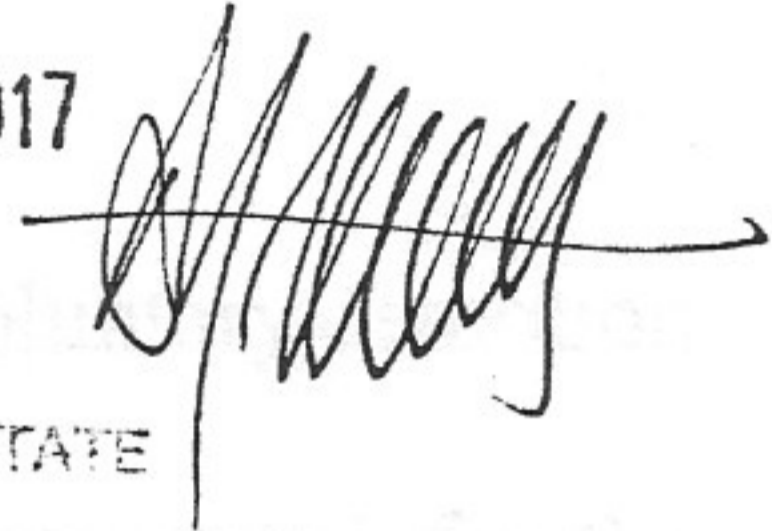
BEFORE THE STATE PERSONNEL DIRECTOR

In the Matter of the Demotion)
Review of:)
ED PACKARD,)
Employee,)
v.)
OFFICE OF THE SECRETARY)
OF STATE,)
Department.)

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ALABAMA
SECRETARY OF STATE



ORDER

The Employee, Ed Packard, (hereinafter "Employee") was appointed to the position of Elections Division Director with the Office of the Secretary of State, (hereinafter "SOS") effective March 1, 2013. At issue is whether the Employee's demotion to Administrator of Elections should be upheld.

It was recommended by Chief of Staff David Brewer that the Employee be demoted for his failure to manage his staff and the Employee's exercise of poor judgment concerning the preparation of an incorrect ballot for certification, the reprinting of said ballots, and the halting of the printing of the ballots. A departmental demotion hearing was held on December 28, 2016, before Secretary of State John Merrill (hereinafter "Secretary Merrill"). Secretary Merrill heard testimony and reviewed the evidence from both sides in connection with Mr.

Brewer's recommendation of the Employee's demotion.

A request for review of the involuntary demotion before the State Personnel Director was timely submitted by the Employee, and position statements, including exhibits and the Employee's personnel file, were provided by both parties. Oral argument was held on January 19, 2016.

FINDINGS

The State Personnel Director's review of an employee's involuntary demotion is a limited one. The review is only to determine if the reasons stated for the involuntary demotion are supported by the evidence presented.

A review of the Employee's performance appraisals indicates that the Employee consistently exceeded standards; however, there were three performance appraisals where he met standards. The Employee has four written reprimands in his personnel file. One reprimand was for failing to perform his job properly when he did not prepare the ballots for mailing. Another reprimand was for disrupting the work environment. The Employee also received a reprimand for missing the statutory deadline to certify the results of a local election. The most recent reprimand pertained to the Employee failing to make the required number of site visits in accordance with a settlement agreement.

The evidence presented by the SOS and the Employee to Secretary Merrill, and reviewed by the State Personnel Director, consisted of factual information pertaining to two separate incidents that were described in the Notice of Demotion,

and also letters of commendation and support by various elections officials in the counties. At the oral argument, the Employee was represented by counsel and was allowed to speak on his own behalf. Thus, in light of the written and oral evidence presented, the decision to demote the Employee is supported by substantial evidence.

As the Elections Division Director, Packard should have personally reviewed the ballot prepared by his staff to ensure its accuracy and its conformance to the constitutional amendments passed by the State Legislature. His reliance on two seasoned Retired State Employees is no substitute for his responsibility to ensure the complete accuracy of a document that will impact all voters of this State. To leave off the most widely published portion of the most widely advertised amendment leads one to believe that Packard's review of the ballot was cursory at best and certainly not to the standard at which the Elections Division Director should follow.

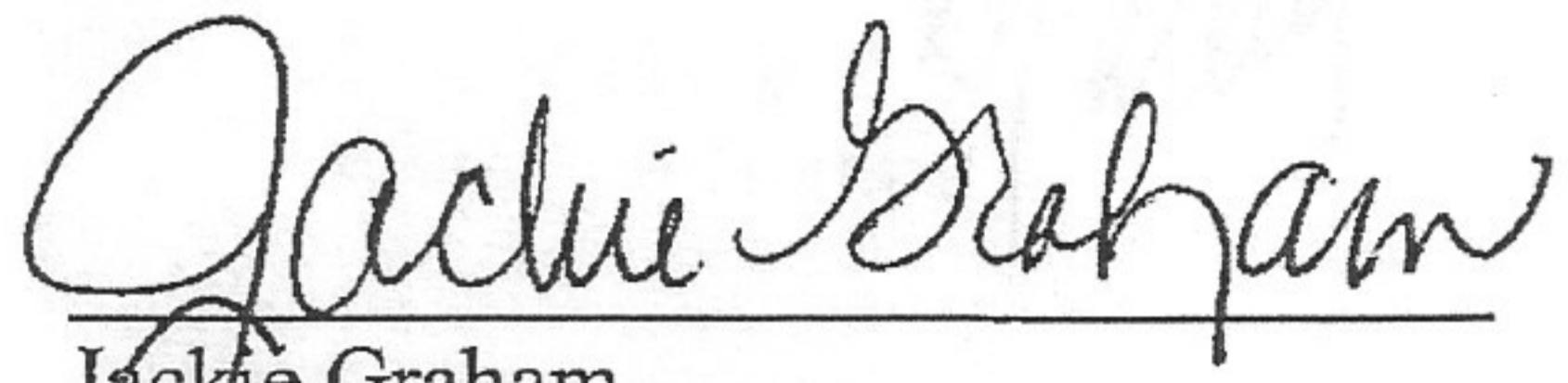
One major reason merit system employees exist is to provide continuity and expertise to ensure State operations continue between and during administrations. This expertise is relied upon by not only our constitutional officers but also the citizens of the State in order to prevent such disruptive acts as occurred in this situation. Packard's failure to perform his job properly cost the State and its taxpayers and is sufficient to support the Secretary of State's decision to demote Packard.

PERSONNEL DIRECTOR

CONCLUSION

Based upon the substantial evidence presented, the demotion of Ed Packard is due to be **UPHELD**. Therefore, Ed Packard shall be demoted from Elections Division Director to Administrator of Elections.

Done this the 26 day of January, 2017.


Jackie Graham
State Personnel Director

cc: John Saxon, Esq.
The Law Offices of John Saxon, PC

Brent Beal, Esq.
Office of the Secretary of State