

STATE OF LOUISIANA  
COURT OF APPEAL  
FIRST CIRCUIT

2026 CA 0105

KENDALL CHOPIN

VERSUS

DOTD — ENGINEERING AND OPERATIONS

Judgment Rendered: SEP 18 2026

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ON APPEAL FROM THE  
STATE CIVIL SERVICE COMMISSION  
IN AND FOR THE STATE OF LOUISIANA  
DOCKET NUMBER S-19042

HONORABLE J. STEWART GENTRY, CHAIRMAN;  
D. SCOTT HUGHES, VICE-CHAIRMAN; JO ANN NIXON, CANDES C.  
CARTER, CRAIG A. NETTERVILLE; CODI PLAISANCE AND  
DR. THOMAS GRIMSTAD

BYRON P. DECOTEAU, JR., DIRECTOR  
DEPARTMENT OF STATE CIVIL SERVICE

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Kendall Chopin  
LaPlace, Louisiana

Plaintiff-Appellant  
In Proper Person

Charlotte McDaniel  
Baton Rouge, Louisiana

Attorney for Defendant-Appellee  
Louisiana Department of  
Transportation and Development

Sherri Gregoire  
Baton Rouge, Louisiana

Attorney for  
State Civil Service

**BEFORE: PENZATO, LANIER, AND FIELDS, JJ.**

ahp Penzato, J., concurs

## **FIELDS, J.**

Kendall Chopin, a former employee of the Louisiana Department of Transportation and Development (“DOTD”), appeals a decision of the Louisiana State Civil Service Commission (“the Commission”) dismissing his appeal of DOTD’s termination of his employment. For the following reasons, we affirm.

### **FACTS AND PROCEDURAL HISTORY**

Mr. Chopin was hired by DOTD on May 1, 2023, and served in the classified service as a Mobile Equipment Operator 2. On April 16, 2025, DOTD terminated Mr. Chopin, who at that time was a probationary employee. On May 15, 2025, Mr. Chopin filed an appeal of his termination with the Commission. In the appeal, he alleged he was wrongfully terminated due to racial discrimination, disability bias, retaliation, and procedural violations. He requested reinstatement to his position, back pay, additional compensation, a formal investigation into misconduct, and protection for witnesses who provided testimony.

On June 2, 2025, a Civil Service Commission Referee (“the referee”) issued a notice to Mr. Chopin of possible defects in the appeal.<sup>1</sup> Specifically, regarding Mr. Chopin’s claims of retaliation, violation of the American with Disabilities Act (“ADA”), discrimination based on disability, and disparate treatment claims, the notice stated that either the Commission did not have jurisdiction over the matters or Mr. Chopin had no right to appeal the matters as he was a probationary employee. With respect to his racial discrimination claim, the notice of possible defects stated that Mr. Chopin failed to allege sufficient specific details to preserve the claims as pleaded and instructed Mr. Chopin to provide additional details. The notice gave Mr. Chopin fifteen days from the date of the notice to amend his appeal in a manner that complied with Civil Service Rule 13.11(d) to cure the defects.

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<sup>1</sup> The notice to Mr. Chopin of possible defects was signed on June 2, 2025. However, in the referee’s decision, he stated that he issued the notice of possible defects on July 2, 2025.

On July 17, 2025, Mr. Chopin filed an amended appeal and attached documents in support of his appeal.<sup>2</sup> Thereafter, on September 9, 2025, the referee issued his decision, finding the Commission “does not have jurisdiction over Mr. Chopin’s claims of retaliation, disparate treatment, violation of the ADA; and discrimination based on disability, as alleged in his appeal...” The referee further found that despite being given an opportunity to do so, Mr. Chopin failed to allege sufficient facts supporting a conclusion that DOTD discriminated against him based on his political or religious beliefs, sex, or race or that a violation of a Civil Service Rule or Civil Service Article occurred. Therefore, the referee found that Mr. Chopin did not establish a right of appeal to the Commission and dismissed his appeal.

On September 18, 2025, Mr. Chopin filed an application for review of the referee’s decision with the Commission.<sup>3</sup> DOTD opposed Mr. Chopin’s application for review. On November 5, 2025, the Commission denied Mr. Chopin’s application for review of the referee’s decision. Mr. Chopin now appeals the Commission’s denial of his application for review. Mr. Chopin assigns error to the following: (1) The referee and Commission erred by dismissing his corrected appeal without reviewing or addressing his non-conclusory factual allegations, labeled exhibits, or referenced witnesses, in violation of Civil Service Rule 13.11(d); (2) The referee ruled on a incomplete and procedurally defective record as material evidence,

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<sup>2</sup> The appeal submitted by Mr. Chopin on July 17, 2025, at 11:48 p.m. was the same appeal submitted to the referee on May 15, 2025. On July 19, 2025, Mr. Chopin resubmitted his amended appeal, stating he sent the wrong appeal. In the referee’s September 9, 2025 decision, the referee only references an amended appeal filed on July 17, 2025. There is no reference to a July 19, 2025 filing. Therefore, it does not appear that the referee considered the amended appeal resubmitted by Mr. Chopin on July 19, 2025. We note that the July 19, 2025 submission included additional claims and attachments that were not related to the original racial discrimination claims. Mr. Chopin was prohibited from supplementing his appeal with new claims. See Civil Service Rule 13.12(a) and (d).

<sup>3</sup> In his application for review of the referee’s decision, Mr. Chopin asserted his amended appeal was not acknowledged, despite being submitted promptly in response to the Commission’s July 2 notice and containing the necessary allegations under Rule. 13.11(d). However, the referee’s decision specifically acknowledged that Mr. Chopin’s appeal was filed on July 17, 2025, but Mr. Chopin reasserted what he alleged in his original appeal. It appears that Mr. Chopin is alleging that the referee did not consider the amended appeal submitted on July 19, 2025.

including audio and union/human resource records, was missing until supplemented, which constitutes reversible error; and (3) The Commission failed to liberally construe his corrected appeal and recognize educational, mental health, and *pro se* barriers.

### STANDARD OF REVIEW

Factual determinations of the Commission or referee should not be reversed or modified unless clearly wrong or manifestly erroneous. **Harris v. Department of Public Safety & Corrections - Dixon Correctional Institute**, 2022-1188 (La. App. 1st Cir. 6/2/23), 370 So.3d 43, 48. However, as to the Commission or referee's interpretation of laws and regulations, we perform our traditional plenary functions and apply the error of law standard. **Harris**, 370 So.3d at 48. The issue before us is a procedural one involving a determination of the sufficiency of an allegation rather than a factual finding. The deferential standard of review afforded to factual findings is, therefore, inapplicable to our review of the referee's decision for legal error. **Harding v. LDH-Aging and Adult Services**, 2025-0040 (La. App. 1st Cir. 6/24/25), 415 So.3d 975, 978, writ denied, 2025-01067 (La. 11/12/25), 420 So.3d 713.

### DISCUSSION

The Commission is vested with “exclusive power and authority to hear and decide all removal and disciplinary cases[,]” and it may appoint referees to hear and decide such cases. La. Const. art. X, § 12(A). The referee's decision “is subject to review by the commission on any question of law or fact[.]” La. Const. art. X, § 12(A). The commission's final decision “shall be subject to review on any question of law or fact upon appeal to the court of appeal wherein the Commission is located[.]” La. Const. art. X, § 12(A). The Commission's jurisdiction to hear appeals is limited to two categories of claims: discrimination claims under Article X, § 8(B) of the Louisiana Constitution, and removal or disciplinary claims under Article X,

§12(A) of the Louisiana Constitution. **Dogans v. Department of Revenue**, 2013-1196 (La. App. 1st Cir. 2/18/14), 142 So.3d 20, 24. The burden of proof on appeal, as to the facts, shall be on the employee. La. Const. art. X, § 8(B). “[A] state classified employee who has been discriminated against in any employment action or decision because of his political or religious beliefs, sex or race” has a right to appeal to the Commission. Civil Service Rule 13.10(b). An appeal to the Commission may be summarily dismissed on the ground “[t]hat the appellant has no legal right to appeal.” Civil Service Rule 13.14(a)(2) and (d).

In summarily dismissing Mr. Chopin’s appeal, the referee determined Mr. Chopin failed to allege sufficient specific facts supporting a conclusion that DOTD discriminated against him based on his political or religious beliefs, sex, or race or that a violation of the Civil Service Rules or Article has occurred, and therefore, he had no legal right to appeal. Civil Service Rule 13.11 sets out what must be included in a notice of appeal. It provides, in pertinent part:

A notice of appeal must:

...

(d) Contain a clear and concise statement of the actions complained against and a clear and concise statement of the basis of the appeal. Where discrimination is alleged to be a basis for appeal, specific facts supporting the conclusion of discrimination must be alleged in detail. The specific facts required will vary depending on the nature of the appeal; however, the facts must be alleged in sufficient detail to enable the agency to prepare a defense. A conclusion of discrimination is not sufficient. The types of facts which must be included are:

1. the date, time and place the discriminatory action took place;
2. the name of the person or agency alleged to have taken the discriminatory action;
3. a description of how appellant’s action, conduct or performance was the same as that of other persons who were treated differently;
4. the names of other persons treated differently and the dates the different treatment occurred;

5. a description of events, including the dates and circumstances thereof, which led appellant to believe that the adverse decision was based on his religious or political beliefs, sex, race, or any other non-merit factor.

Where a violation of the Article or a Rule is alleged to be a basis for appeal, specific facts supporting the conclusion that a violation has occurred must be alleged in sufficient detail to enable the agency to prepare a defense.

Although permanent status employees in the classified civil service have the right to appeal disciplinary actions to the Civil Service Commission, an employee who has not obtained permanent status (*i.e.*, a probationary status employee) is not entitled to review of an appointing authority's action by the Civil Service Commission unless there is an allegation of discrimination. **Kling v. Louisiana Department of Revenue**, 2018-1480 (La. App. 1st Cir. 7/18/19), 281 So.3d 696, 708, writs denied, 2019-01434, 01441 (La. 11/5/19), 281 So.3d 671.

### **ASSIGNMENTS OF ERROR NUMBERS ONE AND THREE**

Mr. Chopin's first and third assignments of error are interrelated and will be addressed together. In Mr. Chopin's first assignment of error, he contends the referee and Commission erred by dismissing his corrected appeal without reviewing or addressing his non-conclusory factual allegations, labeled exhibits, or referenced witnesses, in violation of Civil Service Rule 13.11(d). In his third assignment of error, Mr. Chopin contends the Commission failed to liberally construe his corrected appeal and recognize educational, mental health, and *pro se* barriers. Mr. Chopin contends that his amended appeal of his termination set out protected activity, witness/exhibits, specific timelines, and "comparators evidence." He described his amended appeal of his termination as more than sufficient under Civil Service Rule 13.11(d).

In Mr. Chopin's appeal submitted on July 17, 2025, he reasserted that he was discriminated against based on race. Mr. Chopin specifically alleged he was denied light duty after sustaining an injury, but a Caucasian coworker, Jackie, was given

light duty after her accident. Mr. Chopin did not indicate Jackie's employment status, her last name, or the date and time she was placed on light duty.

Mr. Chopin further alleged that he was not offered additional CDL training at Coastal Driving School, but other coworkers were given additional training. He further stated that he was the only black guy in a specific training class. Mr. Chopin did not provide dates, the names or race of the other coworkers who were given extended training, or their employment status.

Mr. Chopin also alleged that Raymond, a Caucasian male who was related to Superintendent Lance Guerin's wife, "[d]id things and got away with it." Mr. Chopin alleged that Raymond yelled and attempted to physically assault coworkers and no action was taken against him. Mr. Chopin did not provide the dates and times these events occurred, and he did not provide Raymond's last name. He only indicated that Raymond was related to Mr. Guerin.<sup>4</sup>

As a probationary employee, Mr. Chopin could be separated by the appointing authority at any time. See Civil Service Rule 9.1(e). Therefore, Mr. Chopin's appeal of his termination was limited to allegations of discrimination or a violation of the Civil Service Rules. Mr. Chopin asserts he was discriminated against because of his race. We find Mr. Chopin has not alleged sufficient specific facts that would adequately satisfy the requirements for a claim of discrimination based on race or any other discrimination set forth in Civil Service Rule 13.11(d). Accordingly, we find no error in the referee's conclusion that Mr. Chopin's assertions that his separation was racially motivated are not sufficient to satisfy the requirements of

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<sup>4</sup> In Mr. Chopin's original appeal, he alleged that his foreman, Mr. Triche used racial slurs, but Mr. Chopin failed to provide specific dates and times that Mr. Triche used these slurs. Nor did Mr. Chopin specify the racial slurs that were used by Mr. Triche or provide the names of witnesses who could verify these allegations. Mr. Chopin also alleged that Mr. Triche discriminated against him because Mr. Chopin's girlfriend is Caucasian. Mr. Chopin's mere conclusion that Mr. Triche discriminated against him because of his girlfriend's race does not give rise to an actionable claim of racial discrimination.

Civil Service Rule 13.11(d). We therefore conclude, as did the referee, that Mr. Chopin did not satisfy the requirements of Civil Service Rule 13.11(d). Accordingly, we find no merit in assignments of error one and three.

### **ASSIGNMENT OF ERROR NUMBER TWO**

In Mr. Chopin's second assignment of error, he contends the referee ruled on an incomplete and procedurally defective record, as material evidence, including audio and union/human resource records, was missing until supplemented, which constitutes reversible error. Mr. Chopin further contends that "Key evidence (audio, HR and union supplements, Exh. 1.F) was missing at the time of [the] decision[.]" He asserts that a remand is required where the record is incomplete or supplementation was denied.

Pursuant to Civil Service Rule 13.12(d), "No appeal shall be supplemented or amended following the expiration of the delay period stipulated by Sub-section (a) hereof." Subsection (a) pertinently provides:

No appeal shall be effective unless a written notice complying with the requirements of Rule 13.11 is either (i) received in the office of the Director of the Department of State Civil Service at Baton Rouge, Louisiana, or (ii) is addressed to the Director of the Department of State Civil Service at Baton Rouge, Louisiana, with proper postage affixed, and is dated by the United States Post Office.

1. Within thirty (30) calendar days after the date on which appellant received written notice of the action on which the appeal is based when written notice before or after the action is required by these Rules[.]

Our review of the record on appeal reflects that Mr. Chopin received written notice of his termination on April 16, 2025. On June 2, 2025, the referee issued his notice of possible defects, which gave Mr. Chopin fifteen days to amend his appeal to provide sufficient details regarding his claims of racial discrimination. However, both Mr. Chopin and the referee indicated the notice of possible defects was issued on July 2, 2025, which gave Mr. Chopin until July 17, 2025, to file his amended appeal. On July 17, 2025, at 11:48 p.m., Mr. Chopin filed what he labeled "Amended

appeal SAME-RACE DISCRIMINATION CLAIM,” which suggests he was aware of the July 17, 2025, deadline to file his amended appeal. On July 19, 2025, Mr. Chopin submitted a subsequent amended appeal. Since Mr. Chopin was given fifteen days to amend his appeal, we find that it was not unreasonable or unduly burdensome for the referee not to consider Mr. Chopin’s July 19, 2025 filing, as it was submitted untimely. See Civil Service Rule 13.12 (a)(1) and (d); see generally **Brown v. Department of Health & Hospital Eastern Louisiana Mental Health System**, 2004-2348 (La. App. 1st Cir. 11/4/05), 917 So.2d 522, 528, writ denied, 2006-0178 (La. 4/24/06), 926 So.2d 545. Accordingly, Mr. Chopin’s second assignment of error is without merit.<sup>5</sup>

### CONCLUSION

For the foregoing reasons, we affirm the decision of the referee, summarily dismissing Kendall Chopin’s appeal, which was adopted by the Louisiana State Civil Service Commission. All costs of this appeal are assessed to Kendall Chopin.

**AFFIRMED.**

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<sup>5</sup> To the extent that Mr. Chopin’s argues disparate discipline, harassment, retaliation, procedural defects, lack of documentation, rule violations, and supervisor pretext, those claims are not reviewable on appeal. As Mr. Chopin was a probational employee, he was limited to claims of discrimination. See Civil Service Rule 13.10(b); **Kling**, 281 So.3d at 708.