

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS AND ETHICS**

In re Michael Sindram  
Complainant,

Administrative Hearing  
No. 11-04-A  
ANC 4A Grant Rescission

**MEMORANDUM OPINION AND ORDER**

I. BACKGROUND

This motion arises out of a memorandum opinion and order issued by Board Member Charles Lowery on June 6, 2011 in which the Board dismissed a complaint made by Michael Sindram, Complainant, for lack of standing and lack of jurisdiction. The Board opinion stated that Mr. Sindram lacked the legal standing necessary to support a claim against an ANC in which he does not reside and further that the Board does not have the jurisdiction to grant the relief sought. A full statement of the proceedings in this matter can be found in the Board's Opinion, *In re Michael Sindram*, No. 11-04 (June 6, 2011) p 4-7. (hereinafter "June 6 Op.").

Arising from that decision, Complainant filed a motion on September 7, 2011 seeking clarification and modification of the above-mentioned order. Because the modification and clarification sought seeks the same relief as the original complaint, the Board treats it as a motion to appeal the decision of a 1-member panel as permitted by D.C. Official Code §1-1001.05(g). Because Complainant has exceeded the statutory time period in which he may appeal the decision of a one member panel, the Board dismisses this complaint for failure to timely appeal a final Board decision.

## II. ANALYSIS

D.C. Official Code §1-1001.05 (g) permits the Board to hear any case brought before it by one member panels. The law further states, in relevant part that: “An appeal from a decision of any such 1 member panel may be taken to either the full Board or to the District of Columbia Court of Appeals, at the option of the adversely affected party.” *Id.* The statute is silent on the timeframe in which an individual may make an appeal of decisions of a one member panel; however, D.C. Official Code §2-510(a) permits the Court of Appeals to regulate generally “all matters related to proceedings on such appeals.”<sup>1</sup> Rule 15(a)(2) of the District of Columbia Court of Appeals states, in relevant part, that “unless an applicable statute provides a different time frame, the petition for review [of an agency order] must be filed within thirty (30) days after notice is given.”

The Board considers that, although §1-1001.05(g) provides the adversely affected party with the “option” to seek an appeal either to the full Board or to the Court of Appeals, appeals made to the full Board, notwithstanding any timeframe explicitly stated in DCMR or elsewhere in statute, must be made in the same time frame as appeals made to the Court of Appeals. To read the statute and relevant rules otherwise would be to provide an avenue for a petitioner to continually challenge the finality of a Board’s order long after the statutory period where he may do so in Court. For the foregoing reasons, petitioners seeking a review of an opinion of a 1-member panel should have the same time to appeal to the full Board, in this case 30 days, as they have to appeal to the Court of Appeals.

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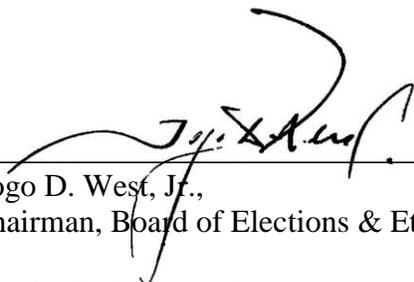
<sup>1</sup> D.C. Official Code §2-510(a) states, in relevant part, “Any person...adversely affected or aggrieved by an order or decision of the Mayor or an agency, is entitled to judicial review...in the District of Columbia Court of Appeals...The reviewing Court may by rule prescribe the form and contents of the petition and..regulate generally all matters relating to the proceedings on such appeals.”

### III. CONCLUSION

The Board finds that, because complainant could timely file a petition for appeal with the Court of Appeals within 30 days of receiving notice of the June 6 opinion of the Board, he could have timely filed the same appeal with the full Board within that time. Because he did not file his complaint until well after the 30 day period, the decision of the 1 member panel is considered the final decision of the Board and unable to be appealed to the full Board.

Accordingly, it is this 27<sup>th</sup> day of October, 2011,

**ORDERED**, that the Complainant's Motion be denied for failure to timely file.



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Togo D. West, Jr.,  
Chairman, Board of Elections & Ethics

Charles R. Lowery, Jr.  
Member, Board of Elections & Ethics