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August 16, 2004

Mr. James Lewis  
Chief Administrative Officer  
City of Albuquerque  
Albuquerque, New Mexico

Re: Termination of Employment - Sammy Kidd

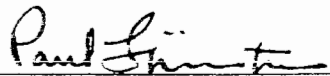
Dear Mr. Lewis:

I have been retained to represent Sammy Kidd, a City recreation coordinator and boxing trainer who has been employed by the City for more than twelve years; he has worked in the Family and Community Services Division, working most recently at the Jack Candelaria Community Center. On July 26, 2004, Mr. Kidd received a memo from Patricia D. Miller, Director of Human Resources, notifying him that his City employment would be terminated as of August 6, and on that date he was terminated as a City employee.

Although Mr. Kidd has been considered and paid as a "temporary" or "part-time" employee, it is my understanding that he has actually been employed and has worked as a full-time employee, since at least 1994. In view of the provisions of the Merit System Ordinance, Sec. 3-1-6(C), requiring placement in the classified service of all employees except those who are "temporary and seasonal employees employed as such" or "part-time employees employed for less than 20 hours per week," we contend that Mr. Kidd is actually a *de facto* permanent, classified employee, not properly subject to termination without just cause. As you must know, the contention that Mr. Kidd is actually a permanent, classified employee is confirmed by Internal Audit Report No 00-124 in which the Parks and Recreation Department was advised that it must "Comply with the City's Personnel Rules and Regulations Regarding the Maximum Length of Service for Temporary Employees." In that audit report it is noted that "Long-term employees could claim that they are permanent ... if allowed to remain on the payroll beyond the two-year limit.

Because Mr. Kidd's employment with the City far exceeds the two-year limit for "temporary" or "part-time" employees, we are asking you to consider him a permanent employee, entitled to the due process and other benefits of City employment for classified employees. Accordingly, I am respectfully requesting, within 10 days of the action taken against him, that you set aside the termination and reclassify Mr. Kidd as a permanent employee. Alternatively, if you choose to reject my request, please set this matter for hearing by a Personnel Hearing Officer in accordance with the Merit System Ordinance, Section 3-1-25 (Appeal from Suspensions, Demotion and Discharge). Thank you for your prompt consideration of this matter. I will be happy to discuss this further, should you choose to do so.

Yours very truly,

  
Paul Livingston

Copy: Valerie Vigil, Family & Community Services ✓