

**BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
DARAYLE ATKINS**

ORDER

May 19, 2021

This matter came before the Board based upon the dismissal of the Employee from his employment with the Alabama Department of Corrections (DOC). The Employee was dismissed from his employment on December 31, 2020, based upon charges contained in a letter dated December 28, 2020. This matter was assigned to Administrative Law Judge Randy Sallé and a hearing was held on March 4, 2021. The Administrative Law Judge's Recommended Order is now before the Board for consideration. The Board has also had the benefit of oral argument.

DOC charges that the Employee violated State Personnel Board (SPB) Rules: 670-X-19-.01(1)(a)(4)- (Failure to perform job properly); 670-X-19-.01(1)(a)(8) – (Violation of specific department rules); 670-X-19-.01(1)(b)(10) – (Serious violation of any other department rule); 670-X-19-.01(1)(b)(12) – (Leaving job station without permission); and 670-X-19-.01(1)(b)(13) – (Conduct unbecoming a state employee). Additionally, the Employee violated many regulations in the Alabama Department of Corrections Administrative Regulation 208.

A review of the Employee's recent work history shows: one (1) Written Reprimand in June 2020 for failure to perform job properly and serious violation of rules, policies, procedures, regulations, laws, or reasonable conduct expectations; and one (1) pending Three-day Suspension for failure to report violation of safety/security rules and conduct that is disgraceful on or off the job.

The Employee was employed by DOC as a Correctional Officer. On October 25, 2020, the Employee volunteered to work an overtime shift at Draper Correctional Facility in Elmore and was assigned to work in Tower 12. That night three (3) inmates were being escorted near the Employee's assigned work area when a Correctional Sergeant approached the inmates, argued with them, and then struck all of them with his baton. The area where the incident occurred is in clear view of Tower 12 and the Employee testified, he did not see nor hear the inmates being beaten in front of the Shift Office that night.


The Correctional Warden testified that the assault was not reported to him until October 27, 2020. He reviewed the video evidence of the incident and determined that the Employee's post had the capability to hear and see the incident that occurred that night. He testified that it was the Employee's responsibility to observe all activities visible from Tower 12 and that officers assigned to work in the towers rarely need to leave their posts. The Employee admitted he was inattentive that night and that he cannot report what he does

not see. The Correctional Warden testified that it is the responsibility of a tower officer to observe the entire area within sight from the tower. The Employee's inattentiveness resulted in his failure to observe three (3) inmates that were assaulted by two (2) other officers and a significant delay in the reporting of the incident.


The Administrative Law Judge found the totality of the evidence does warrant dismissal in this cause and recommended that the Employee's dismissal be upheld. The Board hereby adopts by reference the findings of fact and conclusions of law as found by the Administrative Law Judge as a part of this Order as if fully set forth herein.

The Board has carefully considered the Administrative Law Judge's Recommended Order and the oral argument presented and is of the opinion that the decision of the appointing authority to dismiss the Employee is supported by the evidence and that the termination is warranted.


It is therefore the Order of this Board that the decision of the appointing authority to dismiss the Employee is hereby affirmed.



JACKIE GRAHAM
SECRETARY



FAYE NELSON
CHAIR



MYRON PENN
MEMBER

EVAN M. THORNTON
MEMBER



DAVID R. MELLON
MEMBER

RACHEL BUNNING
MEMBER