BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
MYRIS BELL

ORDER

May 18, 2022

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 October 25, 2021, based upon charges contained in a letter dated October 14, 2021. This matter was assigned to Administrative Law Judge Randy Sallé and a hearing was held on February 3, 2022. The Administrative Law Judge's Recommended Order is now before the Board for consideration. The Board has also had the benefit of oral argument from Mr. Bell’s attorney.

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)(2) – (Insubordination); 670-X-19-.01(1)(b)(10) – (Serious violation of any other department rule); and 670-X-19-.01(1)(b)(13) – (Conduct unbecoming a state employee). Additionally, the Employee incurred numerous violations of the Alabama Department of Corrections Administrative Regulation 208.

A review of the Employee’s recent work history shows: three (3) Warnings in January 2014, September 2017, and May 2018 for tardiness/failure
to follow proper call-in procedures, non-compliance with policies, procedures, and regulation; and violations of departmental or institutional rules, policies, or procedures that do not result in serious consequences; two (2) Written Reprimands in September 2016 and June 2018 for conviction of driving under the influence/driving while intoxicated; disagreeable behavior, including lack of cooperation and insubordination; and serious violations of rules, policies, procedures, regulations, laws, or reasonable conduct expectations; and four (4) three-day Suspensions in May 2011, January 2016, September 2016, and October 2021 for conduct that is disgraceful, on or off the job that does not adversely affect an employee’s effectiveness on the job; abusive or excessive force in dealing with inmates; non-compliance with policies, procedures, and regulations; failure to perform job properly; and conduct that is disgraceful, on or off the job that does adversely affect an employee’s effectiveness on the job.

The Employee was employed by DOC as a Correctional Lieutenant assigned to Donaldson Correctional Facility. On February 12, 2020, the Employee submitted a Certification of Health Care Provider for Family Member’s Serious Health Condition to his Correctional Warden III to request approved leave under the Family and Medical Leave Act ("FMLA"). In March 2020, COVID-19 became a challenging problem for State agencies. At that time, DOC permitted employees to take leave if they were in direct contact with
someone who had COVID-19 or may have had COVID-19. As a result of this policy, the Employee missed about 14 days due to COVID-19 related exposure.

On May 14, 2020, the Employee contacted his Correctional Captain, who was his immediate supervisor, to inform her that he would not be reporting to work and that he was taking FMLA leave. The Correctional Captain informed the Employee that his FMLA leave was not approved and that he was to report to his shift. She told the Employee he would need to bring up-to-date paperwork for his FMLA application. The Employee then told his supervisor that he would not be bringing additional paperwork and that payroll had everything they should need. Neither his supervisor nor anyone from the central Montgomery office ever informed the Employee that his FMLA leave was approved. The Employee erroneously assumed that since his FMLA leave was approved in 2017 that he expected his FMLA leave to also be approved in 2020. The Employee defied his supervisor's authority and refused to turn in the required additional paperwork.

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 has carefully considered the Administrative Law Judge's Recommended Order and the oral arguments in this matter and is of the opinion
that the decision of the appointing authority to dismiss the Employee is not supported by the evidence and that the termination is not warranted.

It is therefore the Order of this Board that the decision of the appointing authority to dismiss the Employee is hereby denied. The Employee is to be reinstated without back pay. This Board further orders that the Employee shall serve a six-month probationary period upon his reinstatement as a Correctional Lieutenant. The Board further orders that during this six-month probationary period, the Employee shall complete training in anger management and professionalism.

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

JACKIE GRAHAM  
SECRETARY

FAYE NELSON  
CHAIR

MYRON PENN  
MEMBER

EVAN M. THORNTON  
MEMBER

DAVID R. MELLON  
MEMBER