

BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
DYLAN KELLER

ORDER

May 15, 2019

This matter came before the Board upon the dismissal of the Employee from his employment with the Alabama Department of Transportation ("DOT"). The Employee was dismissed from employment on January 17, 2019, based upon charges contained in a letter to the Employee dated the same. This matter was assigned to Administrative Law Judge Randy C. Sallé and a hearing was held on March 20, 2019. The Administrative Law Judge's Recommended Order is now before the Board for consideration.

DOT charges that the Employee violated State Personnel Board Rules: 670-X-19-.01(1)(b)(11) – (Leaving job station without permission); 670-X-19-.01(1)(b)(12) – (Disruptive conduct of any sort); and 670-X-19-.01(1)(b)(13) – (Conduct unbecoming of a state employee).

A review of the Employee's recent work history shows: one (1) Written Counseling in June 2018 for not informing supervisor of suspended driver license; four (4) Written Reprimands from September 2011 to January 2018, for invalid commercial driver license, failure to notify supervisor of absence, insubordination and leaving job station without permission; one (1) Written Warning in October 2011 for failure to report absence to supervisor and

refusal to sign leave slip; one (1) 14-day suspension in October 2012 for violation of ALDOT's drug and alcohol policy; and one (1) 15-day suspension in March 2012 for failure to comply with department policies, leaving job station without permission, unauthorized use of state vehicle and tampering with state equipment.

The Employee was employed by DOT as a Transportation Maintenance Technician II. On Friday, January 4, 2019, while working with the guardrail crew in Scottsboro, Alabama, the Employee went into a Wal-Mart store, where he was observed concealing shoplifted items in his pants. At some point before exiting the store, he was confronted by a loss prevention employee and eventually arrested by the Scottsboro police. Later that day, a Scottsboro police officer approached the guardrail crew truck and informed the Employee's coworker that the Employee been arrested for shoplifting and would be taken to jail. The Employee's conduct is unbecoming of a state employee. The Employee's actions resulting in his arrest disrupted the assigned work of the guardrail crew by leaving the crew understaffed.

In the present case, DOT provided substantial evidence that the Employee was arrested and subsequently convicted of theft, which he committed while on the job. The Employee's arrest prevented him from continuing to work with the guardrail crew for the remainder of the day on January 4, 2019, and the entire day the following Monday. Furthermore, the Employee's personnel file includes extensive disciplinary actions, involving

significant issues. The Employee also refused to sign his charge letter, which demonstrates insubordination and an unwillingness to adhere to DOT rules and submit to the authority of his supervisors.


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 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 Adams

RACHEL ADAMS
MEMBER