

**BEFORE THE STATE PERSONNEL BOARD
IN THE MATTER OF**

ALEXANDER COXSON,)	
)	
Appellant,)	
)	
v.)	Case No: 25-24-RCS
)	
ALABAMA DEPARTMENT OF CORRECTIONS,)	
)	
)	
Appellee.)	

RECOMMENDED ORDER TO THE STATE PERSONNEL BOARD

The recommended order arises from an employment termination action by the Alabama Department of Corrections (hereinafter “DOC”). DOC terminated the employment of Alexander Coxson (hereinafter “Coxson” or “the Employee”) based upon his violation of DOC policies and State Personnel Board work rules. The evidence presented during the hearing showed that more probably than not, Coxson’s actions were sufficient to justify his dismissal from DOC.

A hearing was held on January 23, 2026, at the State Personnel Department Board/Hearing room in Montgomery, Alabama. Stephanie Smithee, Esq., appeared as counsel on behalf of DOC. Coxson proceeded *Pro se*.

At the beginning of the hearing, DOC introduced into evidence, exhibits marked as DOC's Exhibits 1-8.¹ Coxson did not proffer any additional exhibits. The undersigned informed the parties that Coxson's personnel file at the Alabama State Personnel Department is included in the record as evidence in this cause.

DOC called as witnesses:

- 1) Dominic Whitley, Correctional Lieutenant;
- 2) Alexander Coxson, Appellant;

Coxson testified on his own behalf.

I. PROCEDURAL HISTORY AND CHARGES

Coxson was dismissed from employment with DOC by letter dated August 19, 2025, effective August 28, 2025. *See* August 19, 2025, dismissal letter ("dismissal letter") signed by DOC Commissioner, John Hamm ("Hamm").²

In DOC's dismissal letter to Coxson, DOC alleged:³

...

On December 20, 2024, you conducted a call-in stating you had two (2) medical appointments, and you would not be reporting for your assigned shift at 10:00 p.m. and would not return to work according to

¹ Due to the sensitive nature of, and/or the privacy protected material DOC Exhibit 8 is hereby placed UNDER SEAL and is not available for public inspection without appropriate Court Order, an Order from the Administrative Law Judge acting under the authority of the State Personnel Board, or an Order of the State Personnel Board.

² DOC Exhibit 3.

³ *Id.*

the Employee Call-In Form until December 31, 2024. On December 21, 2024, you conducted a call-in indicating you were throwing up and your expected return date was unknown. You failed to report for duty on December 22 and December 25, 2024. You did not follow proper call-in procedures. You returned to duty on December 26, 2024, and failed to provide any medical documentation in reference to your absences. You are receiving corrective action for unexcused absence and failure to follow call-in procedures.

On Monday, December 23, 2024, and Tuesday, December 24, 2024, attempts were made to contact you regarding your call-in on December 20, 2024, with negative results. On Friday, December 27, 2024, contact was made with you referring to your call-in on the 20th. You stated that you were on FMLA. Once you submitted documents to support your claim of FMLA, it was determined that the job duties on the documentation did not match your current job title. It was also discovered that no one at the facility provided you or the doctor that completed the FMLA documentation with the job duties which were attached to the paperwork, as such the documentation was not legitimate.

On Saturday, December 27, 2024, you were scheduled to report for duty on Third Shift at 10:00 p.m. You arrived and clocked in at 10:06 p.m. You were not approved to be late for work.

On Friday, January 3, 2025, you were scheduled to report for duty on Third Shift at 10:00 p.m. You arrived and clocked in at 10:03 p.m. You were not approved to be late for work.

On Sunday, February 16, 2025, you were scheduled to report for duty at 10:00 p.m. You called at 5:37 p.m., stating you were sick and would not be reporting for duty. You did not call back and talk to your supervisor after the shift started nor did you provide a doctor's excuse upon your return to work. You are under AR 220 Abuse of Sick Leave and have been instructed to bring a doctor's excuse each time you do a call-in.

...

Coxson timely appealed his dismissal to the Alabama State Personnel Board, pursuant to *Ala. Code 1975*, § 36-26-27(a). The prehearing in this matter was held on October 1, 2025. The hearing was originally scheduled for November 7, 2025. On November 6, 2025, for good cause shown, the hearing was continued and rescheduled for January 23, 2026. On January 23, 2026, the undersigned conducted a *de novo* hearing (the hearing”), at which ore tenus and documentary evidence was received.

II. FACTUAL BACKGROUND

Having reviewed the documentary evidence and having heard the testimony presented at the hearing and having observed the witnesses’ demeanor and assessed their credibility, the undersigned finds the greater weight of the evidence supports the following findings of facts.⁴

A. Employee’s Personnel File⁵

Coxson was hired by DOC on May 8, 2023, as a Correctional Officer Trainee. On November 29, 2023, Coxson’s probationary period was extended ninety days for

⁴ All references to exhibits and testimony are intended to assist the State Personnel Board in considering this recommended order and are not necessarily the exclusive sources for such factual findings.

⁵ See generally SPB Rules 670-X-18-.02(5) and 670-X-19-.01(1)(b) (employee’s work record, including performance and disciplinary history, and length of service considered in dismissing employee).

him to complete courses at the Corrections Academy. On February 21, 2024, Coxson’s probationary period was again extended ninety days for him to complete courses at the Corrections Academy. On April 18, 2024, Coxson was re-classified to Security Guard I after making an Americans with Disabilities Act (“ADA”) request for job modification that allowed sitting periodically. Coxson’s voluntary demotion to Security Guard I was completed on May 16, 2024. Coxson remained in that classification until his dismissal.

Coxson’s annual performance appraisals (“APA”) while at DOC reflect:

<u>Date Ending</u>	<u>Total Score</u>	<u>Category</u>
03/25 ⁶	4.0	Does Not Meet Standards
05/24 ⁷	9.0	Partially Meets Standards
02/24	16.0	Partially Meets Standards
11/23	21.0	Meets Standards

Coxson’s disciplinary history at DOC included, in reverse chronological order:

- A Written Reprimand on December 13, 2024, for being late for work and failure to follow proper call-in procedures.
- A 5-days suspension on October 11, 2024, for failing to follow a supervisor’s instructions or non-compliance with policies and procedures; and disagreeable behavior, including a lack of cooperation or insubordination – refusal to sign performance appraisal or other ADOC

⁶ Security Guard I.

⁷ Final Probationary Appraisal as Correctional Officer Trainee.

official document.

- A 2-days suspension on August 22, 2024, for failing to follow a supervisor's instructions or noncompliance with policies and procedures; disagreeable behavior, including lack of cooperation or insubordination – refusal to sign performance appraisal or other ADOC official document.
- A 5-days suspension on July 4, 2024, for failure to report to work (unexcused absence).
- A 3-days suspension on June 21, 2024, for failure to follow supervisor's instructions or noncompliance with policies and procedures. Failure to report to work (unexcused absence).
- A 2-days suspension on June 20, 2024, for Late for work (tardiness)/failure to follow proper call-in procedures. Failure to report to work (unexcused absence).
- A Warning on March 9, 2024, for non-compliance with policies and procedures. Refusal to sign performance appraisal or other ADOC official document. Disagreeable behavior, including lack of cooperation or insubordination.
- A Warning on January 29, 2024, for late for work (tardiness)/failure to follow proper call-in procedures. Failure to follow supervisor's instructions; non-compliance with policies and procedures. Failure to report to work (unexcused absence).
- A Written Reprimand on January 1, 2024, for leaving assigned post and/or workstation before the end of the shift/workday without permission from proper authority or relief and no serious consequences occur. Disagreeable behavior, including lack of cooperation or insubordination.

B. DOC's Policies/Procedures Forming the Basis of the Charges

Administrative Regulation 250, General Work Rules and Standards of Conduct provide, in pertinent part:

V. PROCEDURES

A. General Work Rules:

1. In addition to any special rules various Deputy/Associate Commissioners, Regional Directors, and Wardens/Division Directors may implement to guide their employees, the following non-exhaustive list of standard general work rules shall apply to all employees. The lists are not all-inclusive and do not imply that the ADOC may not impose corrective action for other sufficient reasons. These rules are consistent with those in Chapter 670-X-19-.01, *Alabama Administrative Code*, as amended.

a. Violations that normally result in corrective actions of increasing severity:

1. Absenteeism – unexcused absences, unreported absences, a pattern of absences or excessive absences.

2. Tardiness, not on the job ready for work at the beginning of the shift.

...

8. Violation of department rules.

b. More serious violations that may result in suspension, involuntary demotion, or termination on the first offense.

...

6. Falsification of records: Application for Employment, timecard, doctor's excuse, etc.

...

13. Conduct unbecoming a state employee.

...

B. Standards of Conduct: Employees are expected to demonstrate high standards of personal integrity, conduct themselves in a professional manner, and display an attitude of cooperation and respect. Employees who violate or fail to adhere to these standards of conduct may be subjected to employee corrective action in accordance with AR 208, *Employee Corrective Action*.

1. All ADOC employees shall adhere to the following standards:

a. Report for work on time and in a condition to perform their job properly, obtaining approval for any absence from work.

b. Tardiness, failure to follow proper call-in procedures, and unexcused absences shall subject the employee to corrective action. (reference AR 220, *Departmental Leave Policy*)

c. Render full, efficient and industrious service.

...

h. Observe all laws, rules and regulations.

i. Uphold with integrity, the public's trust involved in their position.

...

2. ADOC Employees shall not:

...

n. Falsify or refuse to sign documents in connection with the application process, their job duties, performance evaluation or a departmental AR, SOP, or other departmental policy.

...

DOC's Administrative Regulation 220, Departmental Leave Policy provides, in pertinent part:

...

B. Sick Leave:

...

6. An employee should secure advance approval for sick leave requests for scheduled doctor's visits (general physician, specialists, dentists, orthodontists, etc.) inpatient hospital stays; planned medical tests and procedures. Such leave requests should be submitted using eSTART.

...

9. Misuse/Abuse of Sick Leave:

...

e. Calling in sick during special events, such as, but not limited to, sporting events (Super Bowl, Iron Bowl, classics, tournaments) weddings, etc. may result in the employee receiving LWOP and Employee Corrective Action for Unexcused Absence, unless adequate medical documentation is provided.

...

Q. Call-in Procedures:

1. Every employee is responsible for reporting to work at the appropriate work site or duty post ready to begin work at the scheduled time.
2. If an employee is not able to report at the scheduled time, he/she is responsible for calling in prior to the beginning of the scheduled work period.
3. Security personnel shall call-in not less than two (2) hours prior to their beginning duty time.

...

DOC's Administrative Regulation 208, Annex E, Employee Corrective Action Table provides, in pertinent part:

...

2. Late for work (tardiness)/failure to follow proper call-in procedures. A 12-month period without an infraction of #2 starts the progression over. (First Infraction – Counseling; Second Infraction – Warning; Third Infraction – Written Reprimand; Fourth Infraction – 1-day suspension; Fifth Infraction – 2 days suspension; Sixth Infraction – 3 days suspension; Seventh Infraction – 5 days suspension; Eighth Infraction – Termination).

...

20. Failure to report to work (unexcused absence) (First Infraction – Written Reprimand; Second Infraction – 2 days suspension; Third Infraction – 3 days suspension; Fourth Infraction – 5 days suspension; Fifth Infraction – 10 days suspension; Sixth Infraction – 15 days suspension; Seventh Infraction – Termination).

...

30. Intentionally falsifying data associated with agency records (eSTART, shift logs, inmate counts case management system) (First Infraction – 10 days suspension; Second Infraction – Termination).

...

DOC's Administrative Regulation 208, V. Procedures, I. provides, in pertinent part:

- I. Guidance for the use of AR 208 Annex E, Employee Corrective Action Table;

1. AR 208 Annex E, Employee Corrective Action Table, is intended to promote consistent corrective action within the ADOC and guide supervisors at all levels when ECA becomes necessary.
2. At times, there are mitigating or aggravating circumstances surrounding the infraction, and as such, the appropriate level of ECA may be increased or decreased in relation to AR 208 Annex E, Employee Corrective Action Table. When determining the severity of the ECA, supervisors should consider the following relevant factors:
 - a. The nature and seriousness of the infraction, and its relation to the employee's job duties, position, and responsibilities, including frequency, intent, and negligence.
 - b. The employee's job level and type of employment.
 - c. The employee's past corrective action record.
 - d. The employee's past work record, including length of service, performance on the job, cooperation with co-workers and dependability.
 - e. The effect of the infraction upon the employee's ability to behave and perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work behavior and ability to perform assigned duties.
 - f. Consistency of the corrective action imposed upon other employees for the same or similar infractions.
 - g. The impact of the infraction upon the reputation of the ADOC.
 - h. The employee's knowledge of applicable ARs and SOPs that the employee's behavioral or job performance deficiencies violated and that the behavioral or job performance deficiencies would result in corrective action.
 - i. The potential for the employee to correct the behavior or job performance deficiencies.
 - j. Mitigating circumstances surrounding the infraction such as unusual job tensions, personality conflicts, mental impairment, harassment, or other involved

- parties' bad faith, malice, or provocation.
- k. The adequacy and effectiveness of alternative corrective action to deter such behavior or job performance deficiencies in the future by the employee or others.

SPB General Work Rules Forming the Basis of the Charges

These rules are identical to the rules enumerated above in DOC's Administrative Regulation 250.

C. Facts Forming the Basis of Dismissal

On December 20, 2024, Coxson was scheduled to work the 3rd shift which began at 10:00 p.m. On this date, Coxson properly called-in prior to his shift to notify the on-shift supervisor that he would not be able to report for work due to two medical appointments. Subsequently, according to his supervisor, Correctional Lieutenant Dominic Whitley ("Whitley"), Coxson failed to provide medical documentation supporting his absence for December 20, 2024. On December 21, 2024, Coxson properly called-in to report he would not be able to report for his 10:00 p.m. shift because he was sick, throwing up. He also stated in his communication that his return date was unknown. Coxson then failed to call-in or report for work on December 22, 2024, and December 25, 2024, both regularly scheduled shifts. Whitley testified there were numerous attempts to contact Coxson while he was out and all of them were unsuccessful. When Coxson did return to work on December

26, 2024, he failed to provide any medical documentation to support his absences. On December 27, 2024, when Coxson was asked about his December 20, 2024, absence, Coxson communicated he was out on FMLA leave.

Coxson was admittedly late to work on December 27, 2024, and January 3, 2025. On February 16, 2025, Coxson was again scheduled to work at 10:00 p.m. but failed to report for work. Coxson followed the initial proper call-in procedure for that absence but failed to call his supervisor after the shift started and failed to provide medical documentation to support his absence.

Whitley testified that based upon Coxson's prior discipline and absences, he was required to bring in a doctor's excuse when he called out sick. Coxson believed he was not obligated to bring a doctor's excuse because he filed FMLA paperwork. Coxson's FMLA paperwork was dated October 15, 2024.⁸ Administrative Regulation 220 is DOC's leave policy. It provides that if an employee misses three or more consecutive days of work, the employee shall provide a doctor's verification of sickness.⁹ Further, if an employee is suspected of abusing leave, then they may be required to produce documentation to support all claims of sick leave.¹⁰ Whitley

⁸ DOC Exhibit 8.

⁹ DOC Exhibit 7, Bates Stamp 317.

¹⁰ DOC Exhibit 7, Bates Stamp 318.

testified Coxson was under this provision. The leave policy also specifically states that calling in during a special event, like Christmas, would require medical documentation to support the use of sick leave.¹¹

Coxson's FMLA paperwork also contained some errors. Coxson worked as a Security Guard I, however, the FMLA paperwork he submitted included the work responsibilities for a Correctional Officer, not a Security Guard. Coxson testified he downloaded the FMLA paperwork from the Alabama Department of Labor's website and the job responsibilities from the DOC website. There was no credible evidence presented during the hearing that DOC failed to allow Coxson to take leave based upon his qualifying condition; however, there was evidence that Coxson failed to provide medical documentation to support his absences. Coxson argued that the FMLA supersedes DOC policy. In this case, Coxson claimed he had doctor's appointments, seemingly related to his qualifying condition, and then testified he remained out because he was diagnosed with COVID, which was not related to his qualifying condition, diabetes.

Coxson also testified he submitted emails to various DOC officials about some of his absences; however, he failed to produce any of those emails during the

¹¹ Id.

hearing. Coxson testified he attended DOC's academy and testified he read and understood the various DOC policies. Coxson's disciplinary history while at DOC was abysmal and his behavior did not improve despite the many disciplinary actions levied against his misconduct.

III. ISSUE

Did DOC produce sufficient evidence to warrant Coxson's dismissal?

IV. DISCUSSION

The purpose of the administrative appeal is to determine if the termination of the employee's employment is warranted and supported by the evidence. *Kucera v. Ballard*, 485 So. 2d 345 (Ala.Civ.App. 1986); *Thompson v. Alabama Dept. of Mental Health*, 477 So. 2d 427 (Ala.Civ.App. 1985); *Roberson v. Personnel Bd. of the State of Alabama*, 390 So. 2d 658 (Ala.Civ.App. 1980). In *Earl v. State Personnel Board*, 948 So. 2d 549 (Ala.Civ.App. 2006), the Alabama Court of Civil Appeals reiterated:

“[D]ismissal by an appointing authority ... is reviewable by the personnel board only to determine if the reasons stated for the dismissal are sustained by the evidence presented at the hearing.”

Id. at 559, quoting *Johnston v. State Personnel Bd.*, 447 So. 2d 752, 755 (Ala.Civ. App. 1983).¹²

¹² The Alabama Court of Civil Appeals went further to hold: “both this court and the circuit court must take

In determining whether an employee's dismissal is warranted, the department or agency bears the burden of proving the charges warrant termination by a "preponderance of the evidence." The law is well settled that a "preponderance of the evidence" standard requires a showing of a *probability* that the employee is guilty of the acts as charged. Thus, there must be more than a mere possibility or one possibility among others that the facts support the disciplinary action at issue. The evidence must establish that *more probably than not*, the employee performed, or failed to properly perform, as charged. *See Metropolitan Stevedore Co. v. Rambo*, 521 U.S. 121, 117 S.Ct. 1953, 138 L.Ed. 2d 327 (1997), (holding that a "significant possibility" falls far short of the APA's preponderance of the evidence standard). *See also Wright v. State of Tex.*, 533 F. 2d 185 (5th Cir. 1976).¹³

An administrative agency must act within its constitutional or statutory powers, supporting its decision with substantial evidence. "Substantial evidence has been defined as such 'relevant evidence as a reasonable mind might accept as adequate to support a conclusion,' and it must be 'more than a scintilla and must do

the administrative agency's order as 'prima facie just and reasonable' and neither this court nor the circuit court may 'substitute its judgment for that of the agency as to the weight of the evidence on questions of fact.'" *Id.* at 559, citing Ala., Code 1975, § 41-22-20 (k); *State Dept. of Human Res. v. Gilbert*, 681 So. 2d 560, 562 (Ala.Civ.App. 1995).

¹³ In *Bonner v. City of Prichard*, 661 F. 2d 1206, 1209 (11th Cir.1981), the Eleventh Circuit adopted as binding precedent all Fifth Circuit decisions handed down prior to the close of business on September 30, 1981.

more than create a suspicion of the existence of a fact to be established.”” *Alabama Alcoholic Beverage Control Bd. v. Tyson*, 500 So. 2d 1124, 1125 (Ala. Civ. App. 1986).

In the present case, DOC presented sufficient evidence to prove Coxson’s dismissal from State service was warranted. The preponderant weight of the evidence proved: Coxson violated DOC Policy A.R. 250 by being tardy or absent without proper approval; and DOC Policy A.R. 220 failure to provide a proper doctor’s excuse for leave taken around a major holiday and unrelated to his FMLA leave, failure to follow proper call-in procedures, particularly calling his immediate supervisor within two hours after the shift started. These infractions, in consideration of his prior disciplinary history, demonstrate a detrimental pattern of conduct that Coxson appears either unwilling or unable to correct. His tardiness and unapproved absences jeopardize the safety and security of the Correctional facility and could cause real, tangible problems for staff and inmates. Coxson has been given many opportunities to correct his behavior and he has refused.

The undersigned carefully considered mitigation in this case.¹⁴ Generally,

¹⁴ Coxson’s FMLA file is a concern. The only document in the file is his Certification. There was no designation notice or other paperwork that would have helped clarify DOC’s position on Coxson’s FMLA. Coxson was not made to correct the job responsibilities page he submitted, which was patently wrong. The facts in this case are sufficient to warrant dismissal, however, the lack of a proper FMLA file in future cases could result in a different outcome. Also, there was no credible evidence his notable absences and events of tardiness were related to his FMLA qualifying condition.

the distinction between FMLA and non-FMLA absences becomes particularly relevant in cases involving intermittent leave or employees with chronic conditions. Employers may require medical documentation for absences that exceed an employee's approved FMLA intermittent leave schedule or for absences that occur for reasons unrelated to the employee's FMLA-qualifying condition. For example, if an employee has approved intermittent FMLA leave for migraines but calls in sick with the flu, the employer can require a doctor's note for the flu-related absence under its general attendance policy.

Federal courts have recognized this principle in multiple contexts. In *Thompson v. Baptist Hospital of Miami, Inc.*, the Eleventh Circuit distinguished between employees who took non-FMLA leave after FMLA leave expired versus those who remained on FMLA-protected leave, noting that different policies applied to each situation, Thompson v. Baptist Hosp. of Miami, Inc., 279 Fed. Appx. 884 (2008). The court emphasized that employer non-FMLA leave policies can provide different protections and requirements than those mandated under the FMLA. It should be noted that, in *Oak Harbor Freight Lines, Inc. v. Antti*, the District Court for Oregon found that requiring doctor's notes for each intermittent FMLA absence violated the Act because it was "tantamount to requesting a medical certification for each absence" beyond what FMLA regulations permit, Oak Harbor Freight Lines,

Inc. v. Antti, 998 F.Supp.2d 968 (2014). Again, there was no credible evidence that DOC interfered with Coxson's ability to use FMLA leave for his qualifying condition, Diabetes – Type 1, however, DOC may require Coxson to provide a medical excuse for COVID or other infirmities unrelated to this diabetes, so long as it is done in accordance with federal law. In this case, it appeared DOC complied.

The undersigned finds no grounds for mitigation exist justifying a lesser disciplinary action than dismissal. Accordingly, the undersigned finds the totality of the evidence warrants dismissal in this case. Therefore, the undersigned recommends to the State Personnel Board that the dismissal be UPHELD.¹⁵

Done, this the 27th day of March 2026.

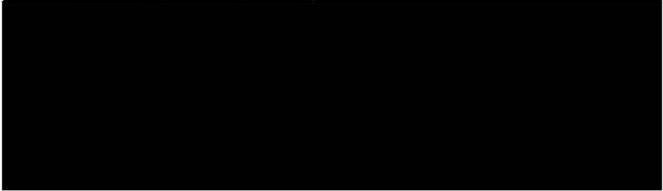

RANDY C. SALLÉ
Administrative Law Judge
State of Alabama
Personnel Department
64 North Union Street
Montgomery, Alabama 36130
Telephone: (334) 242-8353
Facsimile: (334) 353-9901

¹⁵ Having found sufficient evidence to uphold dismissal, any/all remaining issues are moot.

COPIES TO:

VIA EMAIL AND FIRST-CLASS U.S. MAIL:

Alexander Coxson, Pro se



Stephanie Smithee, Esq.
Alabama Department of Corrections
301 South Ripley Street
Montgomery, Alabama 36104
Telephone: (334) 782-7224
Email: stephanie.smithee@doc.alabama.gov