

BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
PERRY D. BUCHANAN

ORDER

July 17, 2019

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 March 1, 2019, based upon charges contained in a letter dated February 25, 2019. This matter was assigned to Administrative Law Judge Randy C. Sallé, and a hearing was held on May 7, 2019. The Administrative Law Judge’s Recommended Order is now before the Board for consideration.

DOC charges that the Employee’s conduct violated Administrative Regulation 208, Employee Standards of Conduct of Discipline: V.A.2 – (Render full, efficient, and industrious service); V.A.3 – (Respond promptly to directions and instructions of supervisors); V.A.7 – (Observe all laws, rules and regulations); V.A.8 – (Uphold, with integrity, the public’s trust involved in their position); V.A.15 – (Complete a written report of all unusual incidents that occur during a tour of duty); V.A.20 – (Cooperate with investigations to include, but not limited to, providing information or verbal/written statements in connection with employment, investigation, or incident reports); V.C.4 – (Shall not use profane, abusive, or threatening language in communication with other

employees, the public, or when supervising inmates); V.C.5 – (Shall not abuse inmates in any manner); V.C.17 – (Shall not apply physical force to an inmate, except and only to the degree that is reasonably necessary in self-defense, to prevent an escape, to prevent an injury to a person or the destruction of property, to quell a disturbance, or restrain an inmate who exercises physical resistance to a lawful command); V.C.20 – (Shall not provide false information, alter an investigation or incident report, and/or intentionally omit facts pertinent to the inquiry); and Annex H, Number 46 – (Giving false information or verbal/written statement in connection with employment, an investigation, or inquiry). Additionally, the Employee is charged with violating State Personnel Board 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)(4) – (Fighting); 670-X-19-.01(b)(5) – (Use of abusive or threatening language); 670-X-19-.01(b)(10) – (Serious violation of any other department rule); 670-X-19-.01(b)(12) – (Disruptive conduct of any sort); and 670-X-19.01(b)(13) – (Conduct unbecoming a state employee).

A review of the Employee's recent work history shows: one (1) Warning in April 2015 for being late for work; one (1) Written Reprimand in November 2015 for failure to perform job properly not resulting in actual consequences; and one (1) Suspension in March 2016 for sleeping or giving the appearance of sleeping.

The Employee was employed by DOC as a Correctional Officer assigned to Easterling Correctional Facility in Clio, Alabama. On August 23, 2018, the Employee was assigned to pill call, and his responsibilities included controlling the access and flow of inmates who were receiving medication. An inmate claimed that the Employee closed the dormitory door before he could go in to get his medication. The Employee testified that he reopened the door for the Inmate and that the Inmate began cursing at him. The Inmate stated that the Employee initiated the cursing. The Employee became concerned that the Inmate was trying to incite a riot and called for assistance from another Correctional Officer. The other Correctional Officer met with the Employee and handcuffed the Inmate's hands behind his back. The other Correctional Officer continued with the pill call duties while the Employee escorted the Inmate to the Restricted Housing Unit. In the Restricted Housing Unit, the Employee asked the Inmate to repeat what he had said to the Correctional Sergeant who was working as the Shift Commander. The Inmate told the Sergeant that the Employee started the verbal abuse. At this point, the Inmate and Employee began arguing. The Sergeant testified that the Employee approached the Inmate and slapped the Inmate in the facial area, while he was still handcuffed. The Sergeant also testified that he saw the Employee push the Inmate up against the wall with enough force to knock the bulletin board off the wall. The Sergeant intervened and separated the Employee and Inmate. The Employee did not

report the incident or allow the Inmate to receive medical treatment after the altercation.

The Employee denied slapping the Inmate. He did not deny shoving the Inmate against the wall, but indicated it was necessary to keep the Inmate against the wall. However, the Intake Sergeant testified that he saw nothing threatening enough from the Inmate to justify the Employee's use of force. Furthermore, the Investigative and Intelligence Division revealed that the Employee was untruthful during the investigation as to his actions, and the Correctional Warden subsequently recommended dismissal. The Employee violated DOC's rules, regulations, policies, and procedures concerning excessive and unnecessary use of force in dealing with inmates and was untruthful when questioned about his actions, and therefore the Employee's dismissal is warranted.

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.

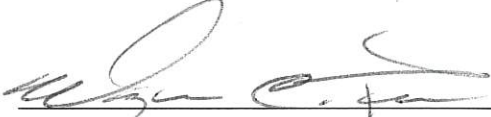
It is therefore the Order of this Board that the decision of the appointing authority to dismiss the Employee is hereby affirmed.



JACKIE GRAHAM
SECRETARY



FAYE NELSON
CHAIR




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