

BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
ANTHONY STONEWALL

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 May 12, 2016, based upon charges contained in a Memorandum from Correctional Warden III Cynthia Stewart. This matter was assigned to Administrative Law Judge James Jerry Wood, and a hearing was held on April 15, 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 and Discipline: V.A.2 – (Shall render full, efficient, and industrious service); V.A.7 – (Shall observe all laws, rules, and regulations); V.C.5 – (Shall not abuse inmates in any manner); and 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 to restrain an inmate who exercises physical resistance to a lawful command); Annex H, Number 10 – (Failure perform job properly); Annex H, Number 18 – (Serious violations of rules, policies, procedures, regulations,

laws, or reasonable conduct expectations); and Annex H, Number 30 – (Abusive or excessive physical force in dealing with inmates). Additionally, the Employee is charged with violating State Personnel Board Rules 670-X-19-.01(1)(a)(8) – (Violation of specific departmental rules); 670-X-19-.01(1)(b)(10) – (Serious violation of any other department rule); and 670-X-19-.01(1)(b)(13) – (Conduct unbecoming of a state employee).

A review of the Employee's recent work history shows: two (2) Suspensions in April 1993 and December 2013 for failure to report an arrest and tardiness; two (2) Written Reprimands in October 1995 and July 2010 for unexcused absence and non-compliance; three (3) Warnings between March 2006 and December 2009 for a minor violation and non-compliance; and one (1) Pre-dismissal in March 2011 for abusive or excessive force/giving false information.

The Employee was employed by DOC as a Correctional Officer assigned to Fountain Correctional Facility in Atmore, Alabama. On April 15, 2016, an investigation was completed stemming from an incident in 2013, related to abusive and excessive use of force. On September 26, 2013, the Employee had a violent encounter with an inmate. The inmate testified that he was lying in his bed waiting to be called for "chow" because his trade school small motors class had been cancelled. The inmate further testified that the Employee entered his dorm and asked if he worked in the kitchen. The inmate stated that he simply

told the Employee that he did not work in the kitchen and explained why he was still in the dorm. According to the Employee, he gave the inmate several direct orders to get out of his bunk and exit the dorm, but the inmate was non-compliant, disrespectful and aggressive. The inmate testified that the Employee first walked away, but then came back to his bed, and pulled him over the rail, dropping him approximately five and one-half feet to the concrete floor.

The record reflects that the inmate received catastrophic injuries to his spine and neck. He is currently in a wheel-chair and has a titanium plate in his neck to stabilize his vertebrae, is incontinent, and has involuntary seizures and spasms. The Correctional Warden III ("Warden") of the facility testified that she observed a video of the Employee engaged in using excessive force on the inmate by pulling him from his top bunk and causing him to fall approximately five feet, landing on his head, shoulders and back. The Warden made the recommendation to the appointing authority that the Employee's employment be terminated. Even if the inmate was noncompliant, DOC policy required the Employee to call a supervisor if an inmate refused a lawful order. Additionally, if true, the inmate's actions do not rise to the level of "physical resistance to lawful command" because the inmate was still on his bunk while the alleged actions occurred.

For a correctional facility, adherence to policies and procedures by all employees is critical for health, safety, and security reasons. DOC cannot condone this behavior and the dismissal for the good of the service 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.

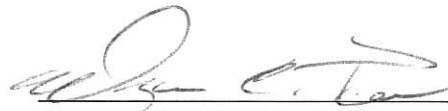
It is therefore the Order of this Board that the decision of the appointing authority to dismiss the Employee is hereby affirmed.



JACKIE GRAHAM
SECRETARY



FAYE NELSON
CHAIR



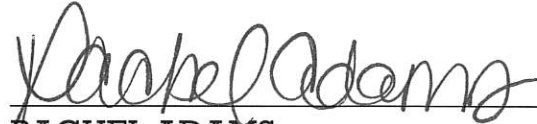
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MEMBER



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MEMBER