

BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL
MARKEON D. PERSON

ORDER

August 21, 2019

This matter came before the Board upon the dismissal of the Employee from his employment with the Alabama Department of Corrections (“DOC”). The Employee was dismissed on May 1, 2019, based upon charges contained in a letter dated April 30, 2019. This matter was assigned to Administrative Law Judge James Jerry Wood and the hearing was held on July 9, 2019. The Administrative Law Judge’s Recommended Order is now before the Board for consideration.

DOC charged that the Employee violated the following standards under Administrative Regulation 208, Employee Standards of Conduct and Discipline: V.A.2 – (Employees shall render, full, efficient, and industrious service); V.A.4 – (Employees shall exercise courtesy and tact); V.A.7 – (Employees shall observe all laws, rules, and regulations); V.A.8 – (Employees shall uphold, with integrity, the public’s trust involved in their position); V.C.5 – (Employees shall not abuse inmates in any manner); V.C.17 – (Employees 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 25 – (Abuse or misuse of authority, including but not limited to departmental property and/or ADOC identification cards/items); Annex H, Number 30 – (Abusive or excessive force in dealing with inmates); and Annex H, Number 33 – (Conduct that is disgraceful, on or off the job that does adversely affect an employee's effectiveness on the job). The Employee is also charged with violating State Personnel Board Rules: 670-X-19-.01(1)(a)(8) – (Violation of specific department 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 a state employee).

A review of the Employee's recent work history shows: one (1) Suspension in March 2013 for failure to follow supervisor's instruction, non-compliance with policies and procedures, and failure to report to work (unexcused absence); one (1) Warning in April 2016 for being late for work and failure to follow proper call-in procedures; and one (1) Written Reprimand in February 2017 for failure to follow supervisor's instruction and non-compliance with policies and procedures.

The Employee was employed by DOC as a Correctional Sergeant at Ventress Correctional Facility ("Ventress") in Clayton, Alabama. On the day of the alleged incident, the Inmate was involved in an altercation with other

inmates that resulted in minor injuries. The Inmate was then escorted to the Healthcare Unit by the Employee. The On-Duty Nurse observed the Inmate that afternoon and stated that he had only minor injuries, which did not require further treatment. The Employee then determined to take the Inmate to the restrictive housing (Dorm B) because of the earlier altercation. The Inmate then ran from the Employee and knocked on the Administration Building door. The Administrative Building Employee (Admin Employee) opened the door to ascertain the situation. The Employee and Admin Employee then apprehended the Inmate and handcuffed his hands behind his back and escorted the Inmate to Dorm B. Once in Dorm B, the Inmate claimed that the Employee was unhappy that he ran from him earlier. The Employee then struck the Inmate in the jaw while his hands were cuffed behind his back. The Admin Employee reported that the Employee asked the Inmate why he had run from him and then struck him in the jaw. After this incident, the employee assigned to Dorm B saw that the inmate was bleeding profusely from his mouth. The Inmate then requested medical assistance. When the Inmate arrived at the Healthcare Unit, the Nurse, who had previously seen the Inmate, stated that the Inmate had different, more significant injuries from those she had seen that afternoon. The Nurse reported that the Inmate "was bleeding from the mouth and his jaw was displaced/deviated." The Nurse further reported that the Inmate "had a bone fragment/exposure protruding from the gum." The Inmate was then

transported to a local hospital where he was examined and sent to a hospital in Montgomery for corrective surgery.

The Employee violated DOC's rules, regulations, policies and procedures concerning excessive and unnecessary force in dealing with inmates and did not follow proper procedures regarding injured inmates, and therefore the Employee's dismissal is warranted.

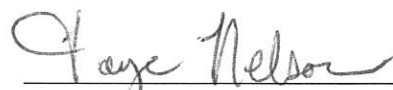
The Administrative Law Judge found the totality of the evidence does warrant dismissal in this cause and recommended that the Employee's dismissal be upheld. The Board hereby adopts by reference the findings of fact and conclusions of law as found by the Administrative Law Judge as a part of this Order 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

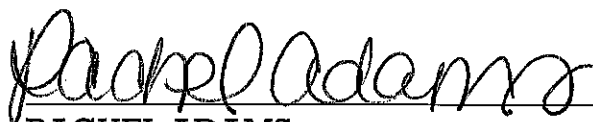


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