

BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
MYRON CHAPPELL

ORDER

July 19, 2017

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 from employment on March 14, 2017, based upon charges contained in a letter to the Employee dated March 13, 2017. This matter was assigned to Administrative Law Judge James Jerry Wood and a hearing was held on May 18, 2017. The Administrative Law Judge's Recommended Order is now before the Board for consideration. The board has also had the benefit of oral argument.

DOC charges that the Employee violated State Personnel Board Rules: 670-X-19-.01(1)(b)(6) – (Falsification of Records); and 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). DOC also charges that the Employee violated DOC Administrative Regulation 208: V.A.7. – (Observe all laws, rules and regulations); V.A.8. – (Employees shall uphold with integrity the public's trust involved in their position); V.B. – (Each employee conduct shall, at all times, be consistent with the maintenance of proper security and welfare of the institution and of the inmates under his/her supervision);

V.C.20. (Employees 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 injury. First Offense: Dismissal).

A review of the Employee's recent work history shows: Three (3) Warnings between February 2010 and December 2014 two for being late to work and a third for non-compliance with policies, procedures and regulations.

The Employee allegedly was untruthful to an investigator from the DOC Investigation and Intelligence Division ("I & I Division") when questioned concerning an event at the Red Eagle Community Work Center ("Red Eagle") on February 9, 2016. On that date, a dog indicated contraband on an Inmate. The Employee was instructed to search the Inmate. The Inmate took off his clothes and placed them on Bunk 17B. The Employee claims when he shook out the clothing, two packets of contraband fell onto the bed. Employee says he found the contraband and took the two packets to the Shift Office. The alleged false information given to the Investigator by Employee was: the location of the contraband when discovered; who discovered the contraband; and whether the contraband came from the Inmate's trousers. The Employee was interviewed on February 16, 2016. Ten months elapsed between this

alleged false information by Employee and the determination by the Investigator that Employee gave false information.

The Employee testified on his own behalf. The Employee was clear in the way the contraband was found when it fell out of the Inmate's pockets onto the bed of 17B. The Employee drew diagrams of where he was, where the others present were, and where he says he found the contraband. There was no evidence that the Employee signed any false statement or incident report. The K-9 alerted on the Inmate who was strip searched by the Employee. Once the Employee had possession of the contraband, it was taken to the Shift Office because it would have distracted the K-9 if the Employee had not moved the contraband.

The Employee was found "not guilty" in Montgomery County District Court on the making of a false report in violation of ALA. CODE § 13A-10-9 on May 15, 2017, on the same set of operative facts forming the basis of the Employee's dismissal from DOC.

The Employee's testimony is believable and compelling. His work record is very good. There is no credible evidence of a motive for the Employee to misrepresent the facts of the search.

The Administrative Law Judge found the totality of the evidence did not warrant dismissal in this cause and recommended that the Employee's dismissal be reversed. 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 the oral argument presented in this matter and is of the opinion that the decision of the appointing authority to dismiss the Employee is not warranted.

It is therefore the Order of this Board that the decision of the appointing authority to dismiss the Employee is hereby reversed and the Employee should be reinstated with back pay and benefits, less interim earnings.


JACKIE GRAHAM
SECRETARY

JOE N. DICKSON
CHAIRMAN



FAYE NELSON
MEMBER



LIANE KELLY
MEMBER



MYRON PENN
MEMBER



EVAN M. THORNTON
MEMBER