

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

DAVID SMITH

APPELLANT

VS.

NO.12-009

**MISSISSIPPI DEPARTMENT
PUBLIC SAFETY**

APPELLEE

ORDER

The Appellant, David Smith, filed this matter before this tribunal, appealing his transfer from Troop G to Troop H by the Appellee, Mississippi Department of Public Safety ("MDPS"). On, March 20, 2012, MDPS filed a Motion to Dismiss. That Motion came on for hearing on May 1, 2012 by telephone conference.

MDPS argues that as a state trooper Smith agreed that he would be subject to being stationed anywhere in the state, and hence that he can be transferred at any time and for any non discriminatory reason. MDPS acknowledges that Smith was transferred because he and the local Sheriff were at odds. A newspaper article quoted a MDPS spokesperson stating that "[a]s a disciplinary measure he (Smith) was transferred to a neighboring county." Smith argues that he was transferred as a disciplinary measure, and that transfer is not a disciplinary measure is not allowed by the Mississippi State Employee Rules.

Employee Appeals Board Rule II B. states that "[a] permanent state service employee may appeal any grievable action and/or a disciplinary action." The issue is whether Smith's transfer was disciplinary, in other words was Smith's transfer punishment for his differences with the Sheriff. Smith was stationed in the adjoining County, it was not necessary that he move his residence. Additionally, neither Smith's rank nor his compensation was affected,

Smith uses an assigned state car so transportation is not an issue. This cannot be construed as a disciplinary action, as Smith has suffered no actual or potential harm.

For the foregoing reasons this matter is dismissed.

SO ORDERED THIS THE 8th DAY OF May 2012.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY: 
INGRID DAVE WILLIAMS
Hearing Officer