

FILED
JUL 30 2012

EMPLOYEE APPEALS BOARD

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

ANGELA McCRAY

APPELLANT

VS.

NO.12-026

**MISSISSIPPI DEPARTMENT OF
CORRECTIONS**

APPELLEE

ORDER

This cause came on for hearing on July 17, 2012, in Jackson, Mississippi. The Appellant, Angela McCray, was represented by Jeff Houston and David Scott represented the Mississippi Department of Corrections ("MDOC").

The following persons testified: Angela McCray.

Angela McCray was employed by MDOC as a Correctional Officer II at the Restitution Center in Flowood, MS. On May 9, 2012, McCray was notified by MDOC that she was being terminated because "during the past 12 months you have accumulated the following disciplinary actions . . . Group III, #1 'Unauthorized use or misuse of state property or records' . . . Specifically, on January 5, 2012 you received a written reprimand for participating in the purchase and preparation of personal food items in the Unit Kitchen at the Flowood Satellite Center." The termination notice also notes a previous suspension, in May 2011, for a Group III # 11 violation.

This tribunal finds as follows: On December 31, 2011, New Year's Eve, prior to reporting to work, McCray purchased food for a fish fry for the employees at the Restitution Center. At the Restitution Center some employees prepared the food in the Restitution Center Kitchen using MDOC utensils. McCray did not participate in the preparation of the food, but did eat the food once it was prepared." On January 5, 2012, McCray received a written reprimand for the unauthorized use of state property for participating in the fish fry, In that reprimand McCray was notified of her right to grieve

the reprimand. McCray signed the reprimand on January 5, 2012, and it was placed in her personnel file. McCray did not grieve the written reprimand.

In January 2012, Angela McCray received a written reprimand for a relatively minor violation involving the misuse of state property. McCray accepted that reprimand and did not grieve it. Four months later, In May of 2012, MDOC decided to use that reprimand to terminate McCray. This cannot be allowed. It was perfectly logical for McCray to conclude that she had received an appropriate punishment when she received the written reprimand. Her decision not to grieve the reprimand was based on the fact that it was a written reprimand and nothing more. For MDOC to use that reprimand four months later to terminate McCray, after her time for appeal of the written reprimand had passed, is a patent violation of McCray's right to due process. McCray had the right to know that the written reprimand would be used to terminate her at the time that she received the reprimand so that she could make an informed decision regarding an appeal.

For the foregoing reasons this tribunal finds that Angela McCray's termination was improper. McCray shall be reinstated to her position as a Correctional Officer II, as of May 6, 2012, with all back pay and benefits.

SO ORDERED THIS THE 30th DAY OF July 2012.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY: 
INGRID DAVE WILLIAMS
Hearing Officer