

FYE 2012
OCT 30 2012
MISSISSIPPI EMPLOYEE APPEALS BOARD

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

ANDREA DUPREE

APPELLANT

VS.

NO. 12-044

**MISSISSIPPI DEPARTMENT
OF CORRECTIONS**

RESPONDENT

ORDER OF HEARING OFFICER

THIS CAUSE having come on to be heard on October 9, 2012, at the Mississippi Employee Appeals Board on appeal by Andrea Dupree (“Dupree”) of her termination by the Mississippi Department of Corrections (“MDOC”). Dupree was unrepresented and the MDOC was represented by the Honorable David Scott.

FINDINGS OF FACT

Dupree was employed as a Lieutenant stationed at the Central Mississippi Correctional Facility. She was randomly selected for an urine drug test which was administered at the end of her shift on May 23, 2012. The initial on-site test was positive for opiates, morphine. The results were confirmed by certified medical review on June 30, 2012. Dupree was terminated effective July 18, 2012, for a Group Three #11 offense of “An act or acts of conduct...occurring on or off the job which are plainly related to job performance and are of such a nature that to continue the employee in the assigned position could constitute negligence in regard to the agency’s duties to the public or to other State employees.” MSPB handbook Chapter 7, I,C,11.

CONCLUSIONS OF LAW

Dupree has the burden of proving that the facts upon which this termination is based are either not true or are an insufficient basis for the action taken by the MDOC. Dupree does not

dispute the facts. She admits that she had taken a pill the evening before her shift began for arthritis. The pill had been given to her by a friend and Dupree thought the pill was an aspirin.

The basis for her termination was a positive drug test which is a sufficient basis for termination of a State employee. State law allows drug testing of all state employees on a random basis and termination of employment after obtaining the results of a positive confirmed test. Miss Code Ann. Section 71-7-13. Likewise, the MDOC has established a policy providing for random drug testing for employees using the employee's unique identification number. MDOC Policy No. 03-18. This policy allows an employee to contest the accuracy of the result or explain it. *Id.* Dupree does not contest the accuracy of the test result and her explanation is that she thought the pill was an aspirin. This explanation is insufficient to reverse the termination herein.

WHEREFORE, PREMISES CONSIDERED this Hearing Officer does find that the termination of Andrea Dupree by the Mississippi Department of Corrections is affirmed.

IT IS THEREFORE ORDERED that the Appeal of Andrea Dupree is hereby **DISMISSED WITH PREJUDICE.**

SO ORDERED THIS THE 30th **DAY OF OCTOBER, 2012.**

MISSISSIPPI EMPLOYEE APPEALS BOARD



WESLA SULLIVAN LEECH
HEARING OFFICER