BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

PATRICIA ANOSIKE		**APPELLANT**
VS.	FILED JAN 28 2013	**NO. 12-042**
MISSISSIPPI DEPARTMENT OF HUMAN SERVICES	EMPLOYEE APPEALS BOARD	**RESPONDENT**

ORDER OF HEARING OFFICER

THIS CAUSE having come on to be heard on appeal by Patricia Anosike ("Anosike") of her written reprimands from the Mississippi Department of Human Services ("MDHS"). Anosike was represented by the Honorable Lauren M. Webb, and MDHS was represented by the Honorable Sara Harvey Roberts. The Agency representative present was Ms. Judy McClain, Region 2 Regional Director.

Anosike has been employed for MDHS as the Area Social Work Supervisor ("ASWS") in Tate County since March, 2011. In June, 2012, Anosike was issued three written reprimands. The first two were on June 4, 2012, for Group III offenses numbered 15, breach of agency security or confidentiality and 16, willful violation of MSPB policies, rules and regulations; and the third on June 29, 2012, for another Group III, number 16 offense.

FINDINGS OF FACT

On or about April 30, 2012, Anosike requested a drug screen for a new hire by fax to the Tallahatchie General Hospital. In violation of MDHS privacy policies, the results of the drug screen were sent to Anosike, rather than MDHS, Department of Family and Child Services, Human Resource office in Jackson, MS.

On or about May 8, 2012, a meeting was held between Anosike, MDHS Regional director, and the ASWS Regional director, to discuss Anosike's alleged inappropriate communication with her staff and failure to maintain professional boundaries. This was the fifth (5th) meeting of the parties on this subject. Following this May 8, 2012, meeting, Anosike spoke to another office employee, a family protective specialist ("FPS") in her office, and discussed the PAR of a co-employee which is against MDHS rules.

On June 5, 2012, the MDHS Tate County office received a call from local law enforcement about an unsafe, emergency situation regarding children. Anosike, the office Supervisor, was traveling to a meeting when she received a call from a FPS in the office about the emergency situation. Anosike instructed the FPS to check the call list and the person next on

the list was to handle the situation. The FPS determined it was she and went to the site of the children where she in fact found them in danger. She texted Anosike and told her she needed to implement a safety plan and Anosike responded "K". The children were then removed, with Court Order, from the unsafe situation. In the office the next day, Anosike gave the FPS a written warning for implementing a safety plan without case staffing or approval from the ASWS. MDHS found this written warning to be retaliatory in nature.

CONCLUSIONS OF LAW

Anosike has the burden of proving that the facts supporting the written reprimands are either not true or not a sufficient basis for the actions taken by the MDHS. MSPB Policy and Procedures Manual, Ch. 10 XX (effective 10/01/10).

The first written reprimand was based on Anosike receiving the drug screen results of a new hire. This was the fourth new hire for which Anosike had submitted a request for a drug screen. The previous requests were properly handled. Anosike denied asking for the drug screen results to be sent to her and in fact the documents completed by Anosike requesting the drug screen did reflect that the results were to be forwarded to the Human Resources department in Jackson as was MDHS policy. Anosike admitted speaking with an employee of Tallahatchie Hospital but denied telling him to send the results to her. The Agency had based its reprimand upon Anosike's receiving the drug screen results and the out of court statement from an employee of Tallahatchie Hospital that Anosike had requested the results over the phone. This statement is hearsay and will not be considered herein. Therefore, Anosike's testimony that she did not request the information together with the copies of the actual documents requesting the drug screen which indicated that the results were to be sent to Human Resources is sufficient proof that the facts upon which this first written reprimand, the Group III No. 15, was based are insufficient.

The second reprimand was based upon Anosike's unprofessional conduct with her employees that included inappropriately discussing private employment matters among employees of the Tate County Office. Anosike had been the subject of five (5) meetings with her Supervisors on the issue of her conduct. Likewise, two of the employees in question testified as to the unprofessional conduct of Anosike. There was also sufficient evidence that Anosike inappropriately discussed the PAR of an employee with another employee in the office. Anosike offered no substantial proof refuting the facts upon which this reprimand was based.

The third reprimand was based upon Anosike's retaliatory reprimand of an FPS. There was sufficient evidence that the FPS did try to contact Anosike on June 5, 2012, to discuss the emergency unsafe situation involving children. When the FPS texted that she was implementing a safety plan for the children in question, Anosike responded "K". The response "K" can reasonably be interpreted as approval for implementation of the safety plan. Anosike's verbal reprimand of the FPS the next day for failure to get supervisors' approval before implementing the safety plan was inappropriate and the written reprimand given as a result was merited.

IT IS HEREBY ORDERED that the Written Reprimand for the Group III, No. 15 offense for breach of Agency security or confidentiality is hereby DISMISSED and shall be removed from Anosike's personnel file;

IT IS FURTHER ORDERED that the Written Reprimand for the Group III, No. 16 offense of a violation of Agency policy and procedures for inappropriate conduct is hereby SUSTAINED and the Appeal of Anosike for this Written Reprimand is DISMISSED, WITH PREJUDICE; and

IT IS FURTHER ORDERED that the Written Reprimand for the Group III, No. 16, offense of a violation of Agency policy and procedures for the inappropriate verbal reprimand given an FPS by Anosike is also SUSTAINED and the Appeal of Anosike for this Written Reprimand is hereby DISMISSED, WITH PREJUDICE.

SO ORDERED THIS THE 28th DAY OF JANUARY, 2013.

MISSISSIPPI EMPLOYEE APPEALS BOARD

WESLA SULLIVAN LEECH
HEARING OFFICER