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FILED
MAY 01 2013

EMPLOYEE APPEALS BOARD

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

VICKY LYNN ATWELL

APPELLANT

VS.

NO.12-077

**MISSISSIPPI DEPARTMENT OF
CORRECTIONS**

APPELLEE

ORDER

This cause came on for hearing on March 7, 2013, in Leakesville, Mississippi. The Appellant, Vicky Lynn Atwell, was represented by Lee Turner and David Scott represented the Mississippi Department of Corrections ("MDOC").

Atwell was employed by MDOC as a Correctional Officer I, at the South Mississippi Correction Institution ("SMCI"). On December 4, Atwell was terminated from her employment with MDOC for "... failure to ... perform assigned work, or otherwise comply with applicable established written policy." Specifically,

Atwell was working in the control tower of SMCI Area I, Unit 8. Officer Atwell did not ensure all necessary building security checks were properly conducted. This is a violation of MDOC Policy and Procedure 16-05, entitled, 'Security Patrols and Inspections'. Officer Atwell did not ensure offender head counts were conducted between the hours of 1000 hours and 1930 hours on July 29, 2012. This is a violation of MDOC Policy and Procedure 16-06-01, entitled, 'Offender Count.' ... Officer Atwell did not monitor offenders. This is a violation of MDOC Post Order number 110, entitled 'SMCI Unit 8, Control Tower Officer.'

Atwell was also charged with falsification of records. Specifically, "... Atwell recorded head counts in the SMCI Area I, Unit I, Unit Register, which were not

conducted." [REDACTED]
[REDACTED]
[REDACTED]

This tribunal finds as follows: Atwell was on duty, on July 29, 2012, from 700 hours until 2400 hours at SMCI, Unit 8 in the Control Tower. Unit 8 houses the most intransigent offenders at SMCI. Pursuant to MDOC Policy, and as Control Tower Officer Atwell was "responsible for ensuring that Formal Counts, Certified Counts and Emergency Counts are conducted properly and logged in the Unit Register . . . Formal Counts . . . are made at specific times during the day or night in an organized manner and reported to Central Control. Formal Counts will be conducted as follows: at 1000 hours . . . at 2045 (Additional counts may be directed by Watch Commander)." Atwell recorded a certified count at 1039 hours, a formal count at 1406 hours, and another certified count at 1656 hours. Atwell also recorded and reported counts at 944, 1240, 1600, and 1824 hours. At 1808 an inmate, Bruce Harrell, left Unit 8. At 1820 another inmate, Blake Leslie, left Unit 8. Both inmates escaped from Unit 8 by climbing through a vent in one of the cells. At 1925 the Inmates were discovered outside of Unit 8 on the prison grounds.

Atwell admitted that she did not insure, prior to the discovery of the errant inmates, that any counts were taken as required by MDOC regulations. Atwell admitted that she recorded and reported counts that were not actually conducted.

Atwell did not insure that all necessary building security checks were

properly conducted, nor did she insure that offender head counts were conducted between the hours of 1000 and 1930 hours. In sum, on July 29, 2012, Atwell did not properly monitor the offenders in Unit 8 and she recorded and reported head counts that were not conducted.

The [REDACTED] cited in Atwell's termination letter is relatively insignificant is of no consequence in her termination. If Atwell's termination is to be upheld, it must be based on her actions on July 29, 2012. Atwell's failure to follow proper count procedures is a clear Group II violation, and her falsification of count records is a clear Group III violation. These violations contributed to the failure to detect inmate "escapes" from Unit 8 on July 29, 2012. Atwell's failures on July 29, 2012, are sufficient to support her termination.

For the foregoing reasons MDOC's decision to terminate Vicky Lynn Atwell is affirmed.

SO ORDERED THIS THE 30th DAY OF April 2013.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY: Ingrid Dave Williams
INGRID DAVE WILLIAMS
Hearing Officer