

**BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD** **EMPLOYEE APPEALS BOARD**

**JOHN W. PACE**

**APPELLANT**

**VS.**

**CASE NO: 11-045**

**MISSISSIPPI DEPARTMENT OF  
MENTAL HEALTH**

**APPELLEE**

**FULL BOARD ORDER**

THIS CAUSE having come on to be heard before the Mississippi Employee Appeals Board ("MEAB"), en banc, on Appeal by the Mississippi Department of Mental Health ("MDMH") of the Order of Hearing Officer dated March 20, 2012, and the MEAB after having considered the Order, the Record in this case as well as the Full Board Brief submitted by the MDMH does find that the Order of Hearing Officer is well-taken and should be Affirmed in its entirety.

In his case before the Hearing Officer, John W. Pace ("Pace") was tasked with the burden of proving that the facts supporting his termination were either untrue or insufficient to support the termination. Pace met this burden. Pace was employed by the State of Mississippi from 1988 until September 6, 2011. From 2001 until his termination, Pace was employed with the MDMH and upon termination had been working as a patient advocate at the Mississippi State Hospital at Whitfield since 2007. He was terminated for providing alleged "false" medical excuses for sick leave taken April 25, to May 1, 2011; and July 6, to July, 11, 2011. Specifically it was alleged, and undisputed by Pace, that the medical excuses were signed by a nurse on Central Mississippi Medical Center letterhead. The record reflects that both excuses were approved by doctors who were employed at the State Hospital and that these doctors had treated

Pace and given him medical excuses for years. The record reflects that the practice was not scrutinized by the MDMH until an apparent disagreement between Pace and his supervisor in March, 2011.

MDMH argues that the physicians were not authorized to give Pace excuses because they are employees of the State Hospital and because they were personal friends of Pace. Neither reason had been raised in the past. Likewise, the MDMH rules requiring physician excuses for four or more sick days missed contain no such prohibition or restrictions.

The MDMH also argues that Pace was guilty of a Group II offense of Insubordination because he appeared on a television news program for three to five minutes on one of the days he was on sick leave. This act is not insubordination. First, the record reflects that Pace was indeed sick during that time and could not find a replacement. Second, there is no rule stating that he must be at home or anywhere else during sick leave; and third, Pace had prior approval from his Supervisor to be out that day during an extended lunch hour for this very purpose.

The Hearing Officer observed the demeanor of the witnesses in this case and could determine the truth and veracity of each and her ruling was supported by the substantial evidence in the record.

Based upon the foregoing, the Order of Hearing Officer dated March 20, 2012, is hereby **AFFIRMED.**

SO ORDERED THIS THE 26<sup>th</sup> DAY OF MARCH, 2013.

MISSISSIPPI EMPLOYEE APPEALS BOARD



WESLA SULLIVAN LEECH  
FOR THE BOARD