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BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

MARY EPPS

FILED

APPELLANT

VS.

JUL 16 2013

NO.13-015

MISSISSIPPI DEPARTMENT OF
CORRECTIONS

EMPLOYEE APPEALS BOARD

APPELLEE

ORDER

This cause came on for hearing on April 23, 2013, in Jackson, Mississippi. The Appellant, Mary Epps, was represented by John McNeal, and David Scott represented the Mississippi Department of Corrections ("MDOC").

SUMMARY

Mary Epps was employed as a case manager with MDOC at the Central Mississippi Correctional Facility ("CMCF"). On February 6, 2013, Epps was terminated from her employment for a Group III, Number 14 violation -- "[A]n act or acts of conduct, . . . occurring on or off the job which are plainly related to job performance and are of such 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." Specifically, CMCF alleged that Epps owned a cell phone which had received calls from a contraband cell phone in the possession of an offender incarcerated at CMCF. This tribunal finds that Epps failed

to meet her burden of proof and could not show that the agency's final decision was not true or was not sufficient grounds for her termination.

OPINION

This tribunal finds as follows: Mary Epps owned a cell phone with the number [REDACTED]. Epps purchased a second cell phone in June of 2012, but her boyfriend continued to pay for the cell phone with the [REDACTED] [REDACTED] telephone number (hereinafter referred to as the "6149 cell phone"). After she purchased the second phone, Epps did not use the 6149 cell phone as her primary means of cell phone communication. On October 3, 2012, following some suspicious activity by an inmate, Audrey Claiborne, in and near Epps office; the discovery that inmate Audrey Claiborne had tobacco and rolling papers; and a tip from a confidential informant – MDOC searched Epps' car and confiscated the 6149 cell phone. The confidential informant also told MDOC investigators the exact location of a cell phone Claiborne and other inmates were using to place calls. The inmate cell phone had the telephone number [REDACTED] (hereinafter called the "2774 telephone.")

Telephone records from Tracfone, the cellular service provider for the 6149 cell phone, show that three calls were placed from the 6249 cell phone to the 2774 cell phone on August 30, 2013; one call was placed from the 6249 cell phone to the 2774 cell phone on August 31, 2013; three

calls were placed from the 6249 cell phone to the 2774 cell phone on September 4, 2013; one call was placed from the 6249 cell phone to the 2774 cell phone on September 5, 2013; four calls were placed from the 6249 cell phone to the 2774 cell phone on September 21, 2013; one call was placed from the 6249 cell phone to the 2774 cell phone number on September 24, 2013; and three calls were placed from the 6249 cell phone to the 2774 cell phone on September 27, 2013. In total, based on the Tracfone records, 16 calls were made from Epps 6149 cell phone to the 2774 inmate cell phone, between August 30, 2013 and September 27, 2012.

Mary Epps provided no explanation for why the 6149 cell phone records showed the 16 calls to the 2774 contraband cell phone linked to inmate Claiborne.

MEAB Rule XX provides that "[a]n appealing party shall have the burden of proving that the reasons stated in the notice of the agency's final decision are not true or are not sufficient grounds for the action taken. "

Epps did not meet her burden of proof. Inmates were found with contraband and a cell phone which showed that calls had been made to a cell phone in Epps possession. Epps could provide no plausible explanation for the calls from the contraband cell phone to her cell

phone. MDOC thoroughly investigated the matter, and based on the facts, reached the conclusion that Epps had been communicating with inmates and probably providing them with contraband. This is clearly an act of conduct plainly related to job performance and of such a nature that to continue Epps in her position could constitute negligence in regard to the Agency's duties to the public or to other State employees.

For the foregoing reasons Epps termination from MDOC is affirmed.

SO ORDERED THIS THE 16th DAY OF July, 2013.

MISSISSIPPI EMPLOYEE APPEALS
BOARD

BY:



INGRID DAVE WILLIAMS
Hearing Officer