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**FILED**  
MAR 24 2014

EMPLOYEE APPEALS BOARD

**BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD**

**HALBERT WILLIAMS**

**APPELLANT**

**VS.**

**NO.13-059**

**MISSISSIPPI DEPARTMENT OF  
CORRECTIONS**

**APPELLEE**

**ORDER**

This cause came on for hearing on December 9, 2013, in Jackson, Mississippi. The Appellant, Halbert Williams, was represented by Dexter Woodbury, and David Scott represented the Mississippi Department of Corrections ("MDOC").

**SUMMARY**

Halbert Williams was employed by MDOC as a correctional officer, with the rank of Captain, at the Central Mississippi Correctional Facility ("CMCF"). On September 18, 2013, Williams was terminated from his employment with MDOC after 22 years. The notice of termination states that Williams was terminated for a Group Two, No. 1 offense of "Insubordination, including but not limited to . . . failure or refusal to . . . comply with applicable established written policy." The termination notice also cites Love for a Group Three, No. 11 offense-- "An 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 State employees." Specifically, MDOC alleged that "a video revealed that . . . Williams, struck Offender [REDACTED] [REDACTED] . . . with a Polyvinyl Chloride Pipe (PVC) during an altercation that occurred on January 1, 2013. . . [and] violated MDOC Policy 16-13-01, by not completing . . . paperwork, which states, '*Staff in state, private, and regional facilities will generate all Use of Force reports on Offendertrak and forward through the chain of command*' and MDOC Policy 16-13 also states that '*Use of Force/Excessive Force is an application of force which, either by the type of force employed, or the extent to which such force is employed exceeds that force which reasonably appears to be necessary under all the circumstances surrounding the incident*'" The termination notice also states that Williams "violated MDOC Policy 03-01 which states, '*Employees are expected to conduct themselves in a dignified, honest and professional manner. . .*' [and] Additionally . . . violated MS Code Annotated 97-3-7 '*Simple Assault; Aggravated Assault; Domestic Violence.*' "

The Tribunal finds that Williams committed the Group Two No.1 Offense of insubordination, but did not commit the Group Three No. 11 Offense as charged. Therefore, Williams' discipline is reduced to a five day suspension without pay and he is reinstated to his position as Captain,

at CMCF, with back pay and all attendant benefits.

### FINDINGS:

Williams had been a Captain at CMCF for approximately six months on January 1, 2013. When Williams came to work for the 3:00 pm to 11:00 p.m. shift he was advised that offenders in the Youthful Offender Unit had been fighting, and that there were rumors that the offenders would fight again at the end of the shift. At the end of Williams shift he was called to the Youthful Offender Unit. When he reported he was the highest ranking Officer there.

When Williams entered the Youthful Offender Unit it was chaotic. Offenders from A Zone were fighting with offenders from B Zone, and a number of officers were attempting to gain control of the situation. Williams bent down to pick up a discarded PVC pipe. [These were pipes which were normally used as shower curtain rods, but which the offenders had been using as weapons in the fight.] Williams then used the pipe to beat on the floor, apparently to get the offenders' attention, and order them to their beds. Williams also used the pipe as a pointer in directing the offenders. In A Zone, Offender ██████ refused to calm down and continued to argue with Lieutenant Doris Smith. ██████ walked away

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<sup>1</sup> At the hearing testimony, documentary evidence, and video evidence were entered into the record.

from Smith and attempted to walk past Williams. Williams thought [REDACTED] was headed to B Zone to continue the fight. Williams approached [REDACTED] and held up his left arm as if to stop him. [REDACTED] threw up his hands in an aggressive movement. At that point Williams hits [REDACTED] once on the shoulder with the PVC pipe in his right hand. Williams hitting [REDACTED] appeared to be a spontaneous response to [REDACTED] aggressive movement. After Williams hit [REDACTED] several other Officers restrained [REDACTED] and used excessive force in subduing him. Williams was not one of those officers.

Once the incident in the Youthful Offender Unit was over Williams returned to his regular station in Recovery and Classification. Williams worked on completing paperwork regarding an incident with another inmate that had occurred prior to his being called to the Youthful Offender Unit, and he supervised his subordinate officers in completing their paperwork regarding the incident at the Youthful Offender Unit. At some point in the early morning hours of January 2, 2013, Williams went to the CMCF Clinic. After Williams was seen at the Clinic, at approximately 5:00 a.m. he was sent to the hospital emergency room for treatment.

CMCF Personnel were unable to interview Williams prior to his termination.

MDOC SOP 16-13-01 states:

Spontaneous Use of Force- A use of force employed as an immediate response to a specific act.

. . . Written policy, procedure, and practice restrict the use of physical force to instances of justifiable self-defense, protection of others, protection of property, prevention of escapes, and to maintain or regain control, and then only as a last resort and in accordance with appropriate statutory authority. In no event is physical force justifiable as punishment. A written report is prepared following all uses of force and is submitted to administrative staff for review.

. . . Written policy, procedure, and practice provide that written reports are submitted to the warden/superintendent or designee no later than the conclusion of the tour of duty when any of the following occur:

. . . use of force to control inmates

#### OPINION

This tribunal finds as follows: Williams employed Spontaneous Use of Force when he hit [REDACTED] with the PVC pipe. Under the circumstances the force did not appear to be excessive. Williams did not continue to hit or attack [REDACTED] in any other manner. Williams did not commit a Group Three, No. 11 violation.

Williams was required by MDOC policy to submit a use of force report. Williams had sufficient time to submit such a report but failed to do so. Williams did commit a Group Two No. 1 violation of Insubordination.

The Mississippi State Personnel Board Policy and Procedures—State Employees Handbook states that "Group Two offenses may be disciplined by written reprimand and/or suspension without pay not to exceed five (5) Williams v. MDOC, 13-059

working days." Consequently, Williams' discipline is reduced to a written reprimand and a suspension without pay for five working days.

For the foregoing reasons Williams' termination from MDOC is reversed and Williams is suspended for five working days without pay. Williams shall be reinstated to his previous position, as Captain with CMCF, and all he is awarded back pay and all of his concurrent employee rights and benefits are restored.

**SO ORDERED THIS THE 24<sup>th</sup> DAY OF March, 2014.**

MISSISSIPPI EMPLOYEE APPEALS  
BOARD

BY:



**INGRID DAVE WILLIAMS**  
Hearing Officer