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BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

TROY FLOYD

**FILED**

APPELLANT

VS.

AUG 28 2014

NO.14-017

MISSISSIPPI DEPARTMENT OF  
CORRECTIONS

EMPLOYEE APPEALS BOARD

APPELLEE

ORDER

This cause came on for hearing on July 23, 2014, in Jackson, Mississippi. The Appellant, Troy Floyd, was represented by William Kirksey, and David Scott represented the Mississippi Department of Corrections ("MDOC").

SUMMARY

Troy Floyd was employed by MDOC as a Field Officer III, in the Community Corrections Division of MDOC. On May 13, 2014, Floyd received a Notice of Suspension dated, May 1, 2014. The Notice of Suspension informed Floyd that he was being suspended for three days for the Group II, No. 1 Offense of "insubordination, including, but not limited to, resisting management directives through actions and or/verbal exchange, and/or failure or refusal to follow supervisor's instruction, perform assigned work, or otherwise comply with applicable established written policy." Specifically, MDOC alleged that Floyd "failed to update the electronic file noting a new crime of Possession of a Firearm by a convicted Felon (08/26/2010 conviction). Further, Offender Maxwell stopped reporting to you in September 2012 and you did not follow up on the offender according to MDOC policy."

This Tribunal finds that Floyd proved that the reasons stated in the Notice

of Suspension were not sufficient grounds for the action taken. Floyd's suspension is reversed, and he is awarded back pay and benefits lost during the three day suspension.

### **FINDINGS**

The process for placing an offender on supervision by MDOC in Brookhaven, Mississippi is as follows: Each field officer is assigned to a judge. That field officer is responsible for any offenders who are placed under supervision by that judge. Once the judge enters a sentencing order placing an offender under supervision the Circuit Clerk's office is responsible for forwarding the sentencing order to the records department at MDOC, and the records department is responsible for opening up an electronic file on the offender. The field officer is responsible for updating that file with current information. Each month the field officer receives a list of active cases for which he is responsible.

Floyd was assigned to Judge Mike Taylor. As a practice Floyd attended Judge Taylor's sentencing hearings and took notes on the sentence of any offenders who would be assigned to him. In May of 2010 Jesse Maxwell was sentenced to supervision by Judge Taylor. Floyd was present and took notes on Maxwell's sentence. The MDOC Records Department never opened a new electronic file on Maxwell to track the May 2010 sentencing. Floyd never received notice from the MDOC records department regarding Maxwell's supervision.

Maxwell was a repeat offender and had been previously sentenced to supervision by MDOC. Consequently Maxwell already had a case number and

an open file in the MDOC tracking system. On August 10, 2010, Floyd opened up Maxwell's file and noted that he had met with Maxwell and explained the supervision process to him. Maxwell did not actually report to Floyd again until March of 2011 which Floyd noted in Maxwell's file on April 8, 2011. Maxwell continued to report regularly until August of 2012.

In September of 2012, Floyd's supervisor, Neil Jones, was reviewing cases and noted that Maxwell had been released from supervision under the case number by which Floyd had been tracking Maxwell. Jones designated Maxwell's electronic file as inactive and consequently Maxwell stopped appearing on the list of offenders Floyd was responsible for supervising. Jones never discussed his removal of Maxwell to the inactive files and Floyd never inquired into Maxwell's removal from his active supervision list. Maxwell also stopped reporting to Floyd after September of 2012.

In January of 2014 it was discovered that Floyd, [REDACTED] was wanted in connection with the disappearance of a deaf teenager. It was at that point that the issues with Maxwell's Supervision were discovered.

MDOC did not present evidence of any written policy or procedure that Floyd had violated.

#### OPINION

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." Floyd met his burden of proof.

There was no evidence that Floyd violated a specific MDOC policy or procedure, was insubordinate, or failed to perform assigned work. There is no question that a good and diligent employee would have looked into the issue of why a new file was not opened on Maxwell after he was placed under supervision in May of 2010, and there is no question that a diligent employee would have inquired as to the status of Maxwell's case after he was removed from Floyd's active caseload. There is no question that Floyd was not diligent. However, failure to be diligent in performing one's job is not insubordination. Lack of diligence is a matter that is more appropriately addressed through the Performance Development System.

Floyd proved that the reasons stated in the notice of the agency's final decision were not sufficient grounds for the action taken. There was ample proof that Floyd had not been diligent in performing his work, but there was no evidence that he failed or refused to follow supervisor's instruction, perform assigned work, or otherwise comply with applicable established written policy.

For the foregoing reasons this tribunal orders that Floyd's three day suspension be reversed. Floyd is awarded back pay and all attendant employee rights and benefits are restored.

**SO ORDERED THIS THE 27th DAY OF August, 2014.**

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY:



**INGRID DAVE WILLIAMS**

**Hearing Officer**