

FILED
MAY 08 2012

EMPLOYEE APPEALS BOARD

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

CONNIE SMITH

APPELLANT

VS.

NO.11-065

**MISSISSIPPI DEPARTMENT OF
CORRECTIONS**

APPELEE

ORDER

This cause came on for hearing on April 10, 2012, in Leakesville, Mississippi. Lee Turner represented the Appellant, Connie Smith, and David Scott represented the Mississippi Department of Corrections ("MDOC").

This tribunal finds as follows: on August 30, 2011, Connie Smith was issued a written reprimand for a Group 2, Number 1 offense of insubordination – specifically, "On 11/18/10 during a review of Offender Mark Brown's #65212 score sheet you noticed a 2010 escape was not documented, however, being that he received the maximum amount of 26 points you did not return the report to the responsible Case Manager to have it corrected, thus violating Policy/Procedure #22-10-01." Smith filed this appeal to this tribunal on November 18, 2011, requesting that the written reprimand be removed from her personnel file.

Policy #22-10-01 does not address the methodology required to classify a prisoner, it simply requires that each inmate's classification status be reviewed annually. However, Policy #22-10-01 does refer to "Documents Required" and states "As required by this procedure and the chain of command." The actual description of the reclassification methodology is described in Policy #22-01-01 and the MDOC Institutional Classification Handbook.

There is no requirement in the applicable MDOC policies that would require Smith to note in the comments that inmate Brown had an additional 2010 escape. Inmate Brown received the highest score of seven with regard to his escape history due to an

escape in 2001. Brown's total score of 21 subjected him to the highest level of supervision, close supervision. There is no requirement in the policies or procedure that the comments include any additional details. In fact the only reference to the comments states, "[t]his line is provided for any additional explanation or information required to clarify the overrides, primary treatment recommendations, and/or housing assignments." As Smith did not make any overrides, no additional explanation was required by the policy. No additional explanations were necessary because Brown had already received the maximum escape score. It is worth noting that even absent the score of seven, for escape history, Inmate Brown's score would have required close supervision. Smith's supervisor overrode the classification recommendation and downgraded the inmate's classification from close to medium because he had not received any institutional disciplinary reports for the previous 12 months. It should be noted that the Institutional Classification Policy 5. RR5 presumes that inmates with an escape history within the past five years will be placed in medium custody.

While Connie Smith did not do her job as thoroughly as she could have, she was not deliberately insubordinate. This particular incident is a matter that is more appropriately handled in the performance review process rather than in the disciplinary process.

For the foregoing reasons this tribunal finds that the written reprimand should be removed from Connie Smith's personnel file.

SO ORDERED THIS THE 8th DAY OF May 2012.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY:



INGRID DAVE WILLIAMS
Hearing Officer