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BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

HALBERT WILLIAMS

FILED

APPELLANT

VS.

APR 17 2015

NO.15-002

MISSISSIPPI DEPARTMENT OF  
CORRECTIONS

EMPLOYEE APPEALS BOARD

APPELLEE

ORDER

This cause came on for hearing on March 31, 2015, 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 December 31, 2014, Williams was terminated because it was "determined that you have restrictions which prohibit you from performing the job related requirements and essential functions of your position ... there is not a reasonable accommodation which MDOC could make, without causing undue hardship to MDOC operations, that would allow you to perform the job related requirements and essential functions of your position." On January 12, 2015, Williams appealed his termination to the EAB.

Williams claims that he was discriminated against on the basis of his disability. This Tribunal finds that Williams met his burden of proving that he

was discriminated against on the basis of his disability; that the reasons for his termination are untrue; and he is reinstated to his position as Captain, at CMCF, with back pay and all attendant benefits.

### **FINDINGS**

Williams has been employed at CMCF for approximately 23 years. On January 1, 2013, Williams was injured attempting to control a fight involving multiple inmates. As a result of his injury, Williams went on leave and eventually received workers compensation benefits. On September 18, 2013, Williams was terminated as a result of allegations concerning his conduct during the January 1, 2013, incident. Williams appealed his termination to the Employee Appeals Board ("EAB"). On March 24, 2014, the EAB reinstated Williams to his position as Captain at CMCF. However, Williams was still on leave as a result of his injury and could not return to work immediately. On Friday, May 30, 2014, at 4:39 p.m. MDOC received Williams' release to return to work with the following restrictions: [REDACTED]

[REDACTED]  
[REDACTED] On Monday, June 2, 2014, his supervisor completed, and the Warden approved, a "Work Comp Restrictions" form which stated that Williams' restrictions could not be accommodated for the position of Captain. On June 3, 2014, MDOC sent a memo to Williams telling him that it could not accommodate his restrictions, and telling him to contact them if he had further questions. On December 31, 2014, Williams was terminated.

At the hearing, Williams acknowledged that he could not perform the job of Captain with the medical restrictions that he has. There was uncontroverted testimony that Williams contacted MDOC after receiving the June 3, 2014, memo and asked MDOC reassign him to another position which would accommodate his restrictions. Williams spoke with MDOC Personnel Officer, Chrystal Galloway, and asked to be placed in another position. Additionally, Williams reviewed available positions, at MDOC, on-line and saw several positions that he thought he could perform with his medical restrictions. There was no evidence that MDOC attempted to place Williams in another position that could accommodate his restrictions. There was no evidence that MDOC did not have a position that could accommodate Williams.

### **OPINION**

To establish a Prima facie discrimination claim under the Americans with Disabilities Act a plaintiff must prove: (1) that he has a disability; (2) that he was qualified for the job he held; (3) and that he was subject to an adverse employment decision on account of his disability. *Equal Employment Opportunity Commission v. LHC Group, Inc., 773 F.3d 688 (5<sup>th</sup> Cir. 2014)*. Furthermore, the employee must show that if he cannot perform the essential functions of the job that "a reasonable accommodation of his disability would have enabled him to perform the essential functions of the job." *EEOC v. LHC, 773 F.3d 688, at 696*. The ADA defines "reasonable  
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accommodation" to include reassignment to a vacant position, and the regulations governing the ADA make clear that reassignment is the appropriate accommodation in some instances. 42 USC §12111 (9) (B), 29 CFR §1630.9 and Appendix to Part 1630—Interpretive Guidance on Title I of the Americans with Disabilities Act. The Employer is not required to make a reasonable accommodation if it would be an undue hardship. 42 USC §12112 (5) (A).

It was undisputed that Williams has a disability; that he had been qualified for the job of Captain prior to his injury and consequent disability; and that he could not perform the essential functions of the job of Captain at CMCF. Therefore, MDOC was required to provide a reasonable accommodation for Williams. The ADA specifically states that a reasonable accommodation includes reassignment, unless such an accommodation is an undue hardship for the Employer.

There was no evidence that MDOC tried to reassign Williams. It is apparent that MDOC failed to engage in the ADA mandated process with Williams to consider reasonable accommodation. 29 CFR §1630.9 and Appendix to Part 1630—Interpretive Guidance on Title I of the Americans with Disabilities Act Under the ADA. Once the employee presents a request for accommodation, the employer is required to engage in [an] interactive process so that together they can determine what reasonable accommodations might be available. *EEOC v. LHC*, 773 F.3d 688, at 699

citing *E.E.O.C. v. Chevron Phillips Chem. Co.*, 570 F.3d 606 at 622. Given that MDOC failed to consider reassignment of Williams they could not show and did not present any evidence that such a reassignment would be an undue hardship for MDOC.

In a nutshell, Williams proved that he was terminated based on his disability and that MDOC failed to attempt to accommodate that disability by engaging in any process to attempt to accommodate his disability by reassignment. For the foregoing reasons, Williams' termination from MDOC is reversed Williams is reinstated to his previous position, as Captain with CMCF, and he is awarded back pay from the date that he was June 2, 2014 the date the he would have returned to duty, and all of his concurrent employee rights and benefits are restored. Further, MDOC is ordered to comply with ADA law and regulations with regard to Williams' disability.

**SO ORDERED THIS THE 17<sup>th</sup> DAY OF April, 2015.**

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY:

  
**INGRID DAVE WILLIAMS**  
Hearing Officer