

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

ANGELA POLLARD

FILED

APPELLANT

AUG 14 2015

VS.

EMPLOYEE APPEALS BOARD

DOCKET NO.: 15-010

MISSISSIPPI DEPARTMENT OF CORRECTIONS

RESPONDENT

AMENDED ORDER OF THE MISSISSIPPI EMPLOYEE APPEALS BOARD

EN BANC

Appellant, Angela Pollard (“Pollard”), filed an appeal to the Mississippi Employee Appeals Board (“MEAB”), *en banc*. Pollard appealed the Order entered by Hearing Officer Michael N. Watts on June 17, 2015. The MEAB, on July 28, 2015, *en banc*, reviewed the record and briefs in this matter, and finds the decision of Hearing Officer Watts should be affirmed.

FACTS

Pollard was employed as a MSP, Area II, with the Mississippi Department of Corrections (“MDOC”). On March 10, 2015 Pollard received a letter from Superintendent of the Mississippi State Penitentiary at Parchman, Earnest Lee, which suspended her for five (5) days for insubordination. Her suspension stemmed from a request by Mr. Lester Williams, the Training Director for the Mississippi State Penitentiary. Mr. Williams told all officers in a 40 Hour Refresher Class scheduled for January 27, 2015, to put in writing “any questions” that they had and that they would like Superintendent Lee to address at a meeting the next day. Pollard, on January 26, 2015, provided correspondence to Training Director, Lester Williams to give to Superintendent Earnest Lee in order for Lee to read the letter during the class on Tuesday,

January 27, 2015. The correspondence stated “Why you letting them people talk about taking \$50 monthly from us we already don’t make nothing what our personal life have to do with this place nothing. Well have you heard from your good friend Christopher Epps if so how is he doing and why he’s not on the wall of shame. And do you think he’s gonna get any time. And Ronald Reagon the same people that try to embarrass others look what happens to your friend. I glad we got a new commissioner (white man) may-be we would get a raise thank you.....”

During the hearing before hearing officer Watts, the only witnesses were Pollard and Superintendent Lee. Three documents were admitted as exhibits 1-3. The hearing officer concluded that Pollard failed to meet her burden of proof that the charge of insubordination was not merited. The hearing officer’s order affirming Superintendent Lee’s March 10, 2015 letter was entered on June 2, 2015.

OPINION

MDOC has a written policy that all personnel should act professionally. Superintendent Lee testified that Pollard acted unprofessionally by writing the letter dated January 26, 2015. Lee characterized the letter as unprofessional in both its tone and content. Lee cited Pollard’s reference to the new superintendent being white and her comments about Commissioner Christopher Epps as unprofessional. Pollard stated “Well have you heard from your good friend Christopher Epps if so how is he doing and why he’s not on the wall of shame. And do you think he’s gonna get any time.” We find that these comments concerning Epps as well as the comments concerning Investigator Ronald Ragon are unprofessional and supportive of the charge of insubordination by MDOC in regard to Pollard. We find that Pollard’s unprofessional comments were a violation of MDOC’s policy and constituted an act of insubordination within

Subparagraph Number 1, of Appendix II (Second Group Offense) as outlined in the *State Personnel Board Manual of Policies, Rules and Regulations* Updated July 2014.

Pollard's only evidence to refute the charge of unprofessionalism was her testimony that she did not intend for her questions to be unprofessional. The burden of proof is on Pollard to prove that the insubordination allegation as alleged by Superintendent Lee is untrue. *See, Mississippi State Personnel Board Policy and Procedures Manual*, effective date 7/1/2014, Chapter 10, Section 20(B). Also, *see Richmond v. Mississippi Department of Human Services*, 745 So. 2d 254 (Miss. 1999).

We find that MDOC's suspension of Pollard was authorized by the *Mississippi State Personnel Board Policy & Procedure Manual* Chapter 9.1(B). We affirm Pollard's five day suspension without pay for insubordination. Her appeal to the Mississippi Employee Appeals Board, en banc, is dismissed, with prejudice.

Based upon the foregoing, the Order of Hearing Officer Michael N. Watts, dated June 2, 2015, is hereby Affirmed. The original order in this matter issued by the full EAB is hereby amended by this order to correct a drafting error.

So ORDERED, on this the 17th day of August, 2015.

MISSISSIPPI EMPLOYEE APPEALS BOARD

A handwritten signature in black ink, appearing to read "Grant M. Fox", written over a horizontal line.

GRANT M. FOX