

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

LEE R. ISHEE

VS.

MS DEPARTMENT OF CORRECTIONS

FILED

SEP 14 2015

EMPLOYEE APPEALS BOARD

APPELLANT

DOCKET NO. 15-037

RESPONDENT

ORDER

On September 4, 2015, the appellant filed an appeal with the Mississippi Employee Appeals Board requesting that the suspension from duty be removed from his records, or in the alternative, the suspension be reduced to a written reprimand, and he be reimbursed for the two twelve-hour days of suspension.

During the 2015 Mississippi Legislative Session, the Governor signed Senate Bill 2804 into law, which amends Section 25-9-127(5) of the Mississippi Code Annotated to state:

“For a period of one (1) year beginning July 1, 2015, the provisions of subsection (1) shall not apply to the personnel actions of the Department of Corrections, and all employees of the department shall be classified as nonstate service during that period. However, any employee hired after July 1, 2015, by the department shall meet the criteria of the State Personnel Board as it presently exists for employment. The Commissioner of Corrections shall consult with the Office of the Attorney General before taking personnel actions authorized by this section to review those actions for compliance with applicable state and federal law.”

This legislation made each employee of the Mississippi Department of Corrections non-state service, removing any property right to his or her position. Therefore, the agency is allowed to make personnel decisions, such as suspensions, without affording the employee the right to appeal an adverse employment decision to the Mississippi Employee Appeals Board.

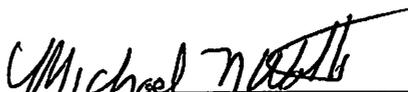
In addition, the Mississippi State Employee Handbook Chapter 9.2, D. states:

“A permanent State Service employee...or Non-State Service employee in...an authorized employment position in an agency which employs State Services employees, may appeal alleged acts of discrimination ...”

The Mississippi Department of Corrections currently employs no State Service employees; therefore, alleged acts of discrimination are not appealable.

Based on M.C.A. Section 25-9-127(5), as amended, the Employee Appeals Board lacks subject matter jurisdiction over appeals of any disciplinary matters or alleged acts of discrimination which affect the employees of the Mississippi Department of Corrections for the period of July 1, 2015 through June 30, 2016. Therefore, Mr. Ishee’s appeal is dismissed, with prejudice.

SO ORDERED, THIS THE 14 DAY OF September, 2015.



MICHAEL N. WATTS
Chief Hearing Officer