

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

MATTHEW JONES

**FILED**  
JUL 24 2014

APPELLANT

VS.

DOCKET NO.: 14-012

MISSISSIPPI DEPARTMENT OF WILDLIFE  
FISHERIES AND PARKS

EMPLOYEE APPEALS BOARD

RESPONDENT

**ORDER**

The appeal of this matter came on for hearing before Hearing Officer, B. Ray Therrell, II, on June 24, 2014, at the Mississippi State Personnel Offices in Jackson, Mississippi. Present at the hearing were the Appellant, Matthew Jones (hereafter "Jones"), represented by, the honorable William H. Hussey. Also present were the honorable W. Douglas Mann, Jr. representing the Mississippi Department of Wildlife, Fisheries and Parks (hereafter referred to as MDWFP) and the Agency Representative, Colonel Steve Adcock. Mr. Jones appeals his written reprimand for insubordination and subsequent five (5) day suspension without pay.

The Appellant, Jones, has been employed as Conservation Officer II with the MDWFP for approximately four (4) years. On February 24, 2014, Jones was called in for a meeting with Colonel Steve Adcock and Lt. Colonel Sammy Fisher to discuss the allegation that he was involved in inappropriate political activity at a legislative luncheon at the Mississippi State capital, on or about February 20, 2014. It is alleged that during this meeting on February 24, 2014, he committed the insubordination through his verbal exchange with Colonel Adcock.

On February 25, 2014, Jones received a Notice of Pre-Disciplinary Conference, specifically alleging that he had committed a Group III offense Number 15 of "engaging in prohibited political activity" and a Group II offense Number 1 of insubordination for "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."

A pre-disciplinary conference was scheduled and held on March 10, 2014. On March 18, 2014, a Disciplinary Action Letter was sent to Jones informing him the Group III Number 15 and 19 offenses were rescinded. By the same letter, Jones was given the Group II Number 1 offense of insubordination for being disrespectful and engaging in a verbal exchange with Colonel Adcock. For his Group II Number 1 offense, Jones was suspended without pay for Five (5) days. On March 28, 2014, Jones appealed this suspension to the EAB.

The rules and regulations of the Mississippi State Personnel Board clearly allocates the burden of proof to the Appellant to show by a preponderance of the evidence that the reasons stated in his termination notices are not true or sufficient for the actions taken by MDWFP. Mississippi State Personnel Board Policy and Procedures Manual provides “the presiding hearing officer shall hear or receive evidence on only those reasons and allegations contained in the responding party’s final disciplinary notice to the employee of such action.” See Section 10.7.18 Mississippi State Policy & Procedures Manual.

Colonel Adcock and Lt. Colonel Fisher were both present at the February 24, 2014 meeting and testified that Jones became upset, sarcastic, and loud during the February 24, 2014, meeting. They further testified that due to his behavior, he was ordered to leave the office. In his testimony, Jones acknowledged the tone of his voice was different, but insisted he did not “blow up.” He was merely trying to get his point across about the issue being discussed.

It is understandable that MDWFP must maintain a high level of discipline and respect within their chain-of-command. Jones’ language and tone could easily have been seen as disrespectful by his supervisors. Considering a heated verbal exchange occurred, his actions must still meet the definition of insubordination, which is defined as “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.” See

Section 9.1 (B) (1) Mississippi State Policy & Procedures Manual. Although MDWFP argues Jones' inappropriate language and behavior violate management directive, the record does not support that contention, nor does it indicate Jones failed or refused to follow any management directive or instruction.

It is the opinion of the hearing officer, the reasons stated in the MDWFP's Disciplinary Action Letter, dated March 18, 2014, are not sufficient grounds for insubordination or the action taken. However, this does not excuse the behavior and language Jones displayed during the February 24, 2014, meeting. Accordingly pursuant to Mississippi Employee Appeals Board Section 10 (24) (B), the Hearing Officer finds that Jones is actually guilty of a Group I Number 3 offense (obscene or abusive language) with regard to his verbal exchange with Colonel Adcock. Thus, Jones' discipline is reduced to a written reprimand and a suspension without pay for three (3) working days.

SO ORDERED, this the 24th day of July, 2014.

MISSISSIPPI EMPLOYEE APPEALS BOARD

  
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B. RAY THERRELL, II  
Presiding Hearing Officer