

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

COURTNEY MOORE

FILED

APPELLANT

SEP 12 2014

VS.

EMPLOYEE APPEALS BOARD

DOCKET NO. 14-026

MISSISSIPPI DEPARTMENT OF CORRECTIONS

RESPONDENT

ORDER

Before the Mississippi Employee Appeals Board is the appeal of Courtney Moore (“Moore” or “Appellant”) for her termination by the Mississippi Department of Corrections (“MDOC”). A hearing was held on Moore’s appeal on August 14, 2014. Moore represented herself. The MDOC was represented by Jim Norris.

Having considered the testimony of all witnesses who testified at the appeal hearing and having considered all exhibits introduced into evidence, this tribunal enters the following Order.

FACTS

Courtney Moore began her employment with the MDOC on June 17, 2013. Moore was terminated from her employment with the MDOC on June 16, 2014. At the time of Moore’s termination, Moore was a Correctional Officer Trainee and had not successfully worked with the MDOC or any other state agency for twelve months. Thus, Moore, on the date of her termination, was a probationary employee. *See Mississippi State Employee Handbook* Sections 7.3 and 8.1.

Specifically, Section 8.1 of the *Mississippi State Employee Handbook* provides that a probationary employee such as Moore may only grieve acts of discrimination based on political affiliation, race, color, handicap, genetic information, national origin, sex, religion, creed, age or disability. Moore’s appeal of her termination was based on racial discrimination. Moore’s ethnicity

is mixed race of Hispanic and Black. Moore's immediate supervisor was Correctional Supervisor Stella Keaton. Keaton's race is black.

Because Moore's race is a mix of Hispanic and Black, Moore is within a protected class. Thus, pursuant to *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), once Moore established she is within a protected class, the burden of proof shifted to the MDOC to articulate some legitimate, non-discriminatory reason for Moore's termination.

At Moore's appeal hearing, the MDOC introduced into evidence a number of documents to reflect that Moore had been provided written counseling for her failure to come to work as required by her work schedule. In addition, the MDOC also introduced documentary evidence to establish that after Moore had been provided written counseling for failure to properly attend work, that Moore continued to miss work in violation of standard MDOC policy concerning employee's responsibility to report to work. Evidence introduced at Moore's appeal hearing established that Moore called in sick on the following days: October 8, 2013, November 5, 2013, November 26, 2013, December 2, 2013, December 30, 2013, January 7, 2014, March 13, 2014, April 11, 19, 2014, May 1, 2, 16, 2014. Moore also had a "no report" for work on April 16, 2014.

Moore was provided a February 25, 2014, written reprimand for insubordination. Moore's February 25, 2014, reprimand was for her failure to have her FBST performed, and failing to provide the results of Moore's TB test to the MDOC nurse's office by the required date of February 18, 2014. Moore had also been provided an additional reprimand on January 28, 2014, for calling in sick. Moore did not appeal either the January 28, 2014, or February 25, 2014, written reprimands.

The MDOC, by proving that Moore had numerous absences from work, and two written reprimands before she completed a full year of MDOC employment, met its burden of proof and

established that it had a legitimate, non-discriminatory reasons for Moore's termination. Accordingly, the burden shifted to Moore to show that the MDOC's actions and stated reason for terminating her were pretexts.

Moore and her boyfriend, Anderson, testified at Moore's appeal hearing. While Moore testified that after Keaton learned Moore's race was Hispanic and Black, that Keaton had been "hard on her," Moore provided no specific facts to support her contention that Keaton was "hard on her," for any reason, racial or otherwise. Further, Moore admitted during cross-examination that she did not think Keaton's conduct toward her was based on race until Anderson, Moore's boyfriend, told Moore that Keaton had made a comment that Moore was "young and mixed."

More specifically, at the appeal hearing, Anderson testified that in March of 2014, he heard Keaton make a comment about Moore being "young and mixed." Other than this statement, Anderson provided no probative evidence of any factual basis to support Moore's allegation that Keaton held a bias against Moore, whether racial or otherwise.

At Moore's appeal hearing, Ms. Williams, Personnel Director at the MDOC - Parchman, Mississippi, testified. During her testimony, Ms. Williams reviewed Moore's personnel file and testified that Moore did not appeal any of her earlier written reprimands and that Moore had never filed a grievance or complained of racial harassment, or any harassment. Ms. Williams further testified that the MDOC investigated allegations of alleged discrimination, but Moore's personnel file did not reflect that Moore had alleged discrimination against Keaton or any other superior of Moore.

Having considered all of the facts set forth, *supra*, and having considered all facts and documents introduced at Moore's appeal hearing, this tribunal finds as a fact that Moore failed to

meet her burden of proof that the MDOC's stated reasons for Moore's termination were pretexts. Further, this tribunal finds as a fact that Moore's numerous absences from work, and her receipt of two written reprimands as a probationary employee, one of which pertained to Moore's refusal to timely provide her TB test results to the MDOC nurse, were sufficient, non-discriminatory reasons for the MDOC to terminate Moore. Accordingly, Moore's termination from the MDOC is affirmed. Moore's appeal is dismissed, with prejudice.

SO ORDERED, THIS THE 12 DAY OF September, 2014.

MISSISSIPPI EMPLOYEE APPEALS BOARD

By: Michael N. Watts
MICHAEL N. WATTS
Presiding Hearing Officer