

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

CHARQUETTA MCKINNEY

FILED

APPELLANT

VS.

DEC 15 2014

NO. 14-050

MISSISSIPPI DEPARTMENT
OF CORRECTIONS

EMPLOYEE APPEALS BOARD

APPELLEE

ORDER

This cause came on for hearing on November 13, 2014, in Tupelo, Mississippi. The Appellant, Charquetta McKinney, appeared pro se and David Scott represented the Mississippi Department of Corrections ("MDOC").

SUMMARY

Charquetta McKinney was employed as a Field Officer I in the MDOC Community Corrections Division, Region I, in Lee County, Mississippi. On September 25, 2014, McKinney was terminated for a Group III, No. 6 Offense of "[f]alsification of records, such as, but not limited to, vouchers, reports, time records, leave records, employment applications, or other official State documents." Specifically, MDOC charged McKinney with changing a discharge order after it had been signed by the Circuit Court Judge by "using 'white out' to change the name on the signed discharge order." McKinney was also charged with changing the cause number on the order.

This tribunal finds that MDOC's termination of McKinney was not supported by the evidence and McKinney's termination is reversed.

FINDINGS

Charquetta McKinney supervised MDOC offenders who have been

placed on probation. When offenders completed the requirements to be released from probation, McKinney prepared petitions to discharge offenders from supervision and the orders discharging them from supervision, to be signed by the Circuit Court Judge.

McKinney supervised two probationers, James Shines and Jeremiah Hughes. During his probation Shines had complained to the Commissioner of the MDOC about problems he had encountered in having his payments properly credited, and McKinney had been informed about those issues. As a result, McKinney was particularly concerned about making sure that Shines was released from probation timely.

Shines and Hughes became eligible for release from probation at the same time. McKinney was responsible for preparing the petitions and discharge orders for Shines and Hughes. The petition is prepared by inputting information into a computer generated form; and the discharge petition and order are automatically generated based on that information. The day that McKinney was inputting that information for Shines and Hughes, she completed the information for Hughes' petition and order, but before she could prepare Shines' order the computer system malfunctioned. In an attempt to make sure that Shines' order was prepared timely, McKinney used another program to make changes to the already prepared Hughes' petition in an attempt to generate a petition and order for Shines. However, McKinney failed to realize that while the petition was generated with Shines' name and cause number on it, the accompanying order

still had Hughes' name and cause number on it. McKinney printed both sets of documents but did not review them for accuracy. As was customary, a correctional officer took both sets of documents to the Circuit Court to be signed. The Judge signed the correct order releasing Hughes from supervision, and what was essentially a duplicate order for Hughes but which was supposed to be for Shines. The Judge did not notice that he had signed the same order twice. When McKinney received the documents back from the Court she failed to review the documents and forwarded them to the office of Assistant Director of Community Corrections, Bill Brand, so that both Shines and Hughes could be removed from her case load, and for further processing. Several days later, McKinney realized that Hughes had been removed from her caseload, but Shines had not. On March 31, 2014, McKinney reviewed the documents and realized what had happened. In an attempt to correct her mistake, McKinney used "white out" to change the name on the signed discharge order from Hughes to Shines but did not change the cause number from Hughes' cause number to Shines' cause number. McKinney scanned these documents back into the system with a note saying do not use. At the time that McKinney made the "correction" to the order her supervisor was out on sick leave and McKinney was unaware that she was doing anything that could be considered falsification. At that time, McKinney also created a new discharge petition and order for Shines and sent them to the court to be signed, but never received the order

back from the Circuit Court. McKinney did not follow up on the second petition and discharge order.

Sometime later Brand discovered the order on which McKinney had used the "white out" and referred the matter to the Corrections Investigations Division ("CID"). The CID investigation was initiated on May 15, 2014. McKinney was interviewed on May 16, 2014, and admitted to altering the Circuit Court Order with "white out." Following the CID interview, McKinney personally filed an amended petition and discharge order. The correct discharge order, releasing Shines from probation, was filed on May 19, 2014. McKinney was terminated on September 25, 2014. The CID report was completed on October 10, 2014.

On September 4, 2014, Joyce Loffin, Lee County Circuit Court, wrote a letter to the Director of Community Corrections, Lee McTeer, indicating that Hughes' petition and discharge order had been filed on March 24, 2014, and that Shines' original petition for discharge with the incorrect Hughes discharge order had been filed on March 27, 2014.

McKinney convincingly testified at the hearing that she had complained about the actions of some correctional officers, and that she believed that the circumstances that led to her termination were an attempt to retaliate against her.

OPINION

MEAB Rule XX provides that "[a]n appealing party shall have the burden

of proving that the reasons stated in the notice of the agency's final decision are not true or are not sufficient grounds for the action taken." McKinney met her burden of proof.

There is no definition of the term falsification in the Mississippi State Employee Handbook or in Mississippi law. Therefore we look to the list of examples in the description of the Group Three, No. Six Offense: vouchers, reports, time records, leave records and employment applications. The enumerated documents all imply intent to deceive or defraud.

The evidence indicates that McKinney made a mistake in failing to submit the correct order to have Shines discharged. Shines was eligible for release from probation and McKinney, the Circuit Court Judge, and the Clerk of Court initially thought that the Judge had signed a discharge order for Shines. When questioned about making the "white out" change to the order, McKinney admitted doing so. There was no evidence of intent to deceive or defraud, and no evidence that McKinney had anything to gain in attempting to fix her error. McKinney clearly made a mistake, and she tried to use a short cut to fix it. While it may have been ill considered, it hardly amounts to falsification

There was no evidence that McKinney did anything but fail to perform her job in a professional and workman like manner, resulting in an error. Additionally, when McKinney discovered that error, she failed to correct it in a professional and workman like manner. Those failures are not falsifications and should be addressed through the performance development system rather than the disciplinary system.

For the foregoing reasons McKinney's termination from MDOC is reversed and she is reinstated to the position of Field Officer I and awarded back pay and all attendant benefits.

SO ORDERED THIS THE 15th DAY OF December, 2014.

MISSISSIPPI EMPLOYEE APPEALS
BOARD

BY:


INGRID DAVE WILLIAMS
Hearing Officer