

FULL BOARD OF THE MISSISSIPPI EMPLOYEE APPEALS BOARD

SHARONA CAUSLEY

FILED

APPELLANT

VS.

FEB 13 2015

NO. 14-043

MISSISSIPPI DEPARTMENT OF CORRECTIONS

EMPLOYEE APPEALS BOARD

RESPONDENT

ORDER OF MEAB BOARD, EN BANC

Appellant, Sharona Causley ("Causley") filed an appeal to the Mississippi Employee Appeals Board ("MEAB), *en banc*, appealing the Order entered by Hearing Officer Michael N. Watts, affirming her termination from employment with the Mississippi Department of Corrections ("MDOC"). The MEAB, *en banc*, having reviewed the record in this matter, affirms the decision of Hearing Officer Watts. The reasons for the MEAB, *en banc*, opinion are set forth below:

FACTS

Causley was employed as a Correctional Officer I at the Mississippi State Penitentiary, Parchman, Mississippi. Causley was terminated by letter effective August 28, 2014. Causley's termination letter set forth the following reasons for her termination:

1. You called in and did not report for duty on the following days:

January 27, 2014 - called in sick?  
February 27 2014 - called in child sick  
March 29, 2014 - called in (spoke with Capt. Belton)  
April 11, 2014 - called in child sick  
April 25, 2014 - called in child sick  
May 11, 2014 - called in child sick

Insubordination, including, but not limited to, 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 is a violation of Subparagraph Number 1 of Appendix II (Second Group Offense) as outlined in the State Personnel Board Manual of Policies, Rules and Regulations updated July 2013.

Prior discipline which was used as a basis of accumulation of offenses in disciplinary actions, include:

1. You were issued a written reprimand dated February 12, 2014 for violation of Subparagraph Number 1 of Appendix I (First Group Offense) as outlined in the State Personnel Board Manual of Policies, Rules and Regulations updated July 2013 (reported to work late three times within a sixty day period).
2. You were issued a written reprimand dated January 1, 2014 for violation of Subparagraph Number 2 of Appendix III (Third Group Offense) as outlined in the State Personnel Board Manual of Policies, Rules and Regulations updated July 2013 (called in on November 8, 9, 2013 and December 19, 2013).
3. You were issued a written reprimand dated August 23, 2013 for violation of Subparagraph Number 1 of Appendix II (Second Group Offense) as outlined in the State Personnel Board Manual of Policies, Rules and Regulations updated July 2013 (did not conduct nor assist in the shakedown assignment at Unit 26A Building).
4. You were issued a written reprimand dated July 22, 2013 for violation of Subparagraph Number 1 of Appendix II (Second Group Offense) as outlined in the State Personnel Board Manual of Policies, Rules and Regulations updated July 2013 (refused to do kitchen logs on July 22, 2013).

Mississippi State Employee's Handbook, July 2013 edition, states that Group II Offenses may be disciplined by written reprimand and/or suspension without pay not to exceed five working days. Accumulation of two Group Two written reprimands within a one year period may result in demotion or dismissal. Accumulation of one written reprimand for a Group Two Offense and three written reprimands for Group One offenses within a one year period may result in demotion or dismissal.

Causley appealed her termination to the MEAB and a hearing was held on November 7, 2014. Causley represented herself. The MDOC was represented by Special Assistant Attorney General David K. Scott.

On December 5, 2014, after considering the testimony of all the witnesses and having considered all exhibits introduced into evidence, Hearing Officer Watts entered an Order affirming the termination action taken by MDOC and dismissing the appeal of Causley. Hearing Officer Watts found Causley failed to meet her burden of proof that the allegations in her termination letter were untrue. Furthermore, the Hearing Officer found Causley had received a Group One offense, a Group Two offense, and a Group Three offense within one year. Thus, there was sufficient grounds for MDOC's termination of Causley. Subsequently, Causley timely filed an appeal the MEAB Full Board.

### OPINION

MEAB Rule 18 A. provides that "The purpose of the hearing is to ascertain the truth." MEAB Rule 20. B. states 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. There is no requirement that the agency support their decision to terminate an employee with "substantial evidence." The burden is on the employee to show that reasons for the agency's decision are not true or are not sufficient grounds for the action taken.

Hearing Officer Watts, in his December 5, 2014, Order ruled:

Causley, prior to her call ins and not reporting for duty on the dates of March 29, 2014, April 11, 2014, April 25, 2014, and May 11, 2014, had been provided with written counseling addressing her calling in and failure to come to work. In addition, Causley had also received a Group III, Subparagraph Number 2 written reprimand on January 1, 2014, for chronic absenteeism. Causley's continued calling in and failing to report to work on the dates set forth in her August 25, 2014, termination letter after receiving written counseling, and a written reprimand for not properly reporting to work was an act of insubordination, a Group II offense as defined in the *State Personnel Board Manual of Policies, Rules and Regulations updated July 2013*.

*The Mississippi State Personnel Board Policy and Procedures Manual (MSPBPM)* also provides that "accumulation of two (2) Group Two written reprimands within a one (1) year period may result in demotion or dismissal." *Id. See, MSPBPM § 9.1(B).*

The record reflects that Causley did not accumulate two Group Two offenses within a one (1) year period. Causley received a Group Two offense written reprimand on August 23, 2013, and was terminated for a Group Two offense on August 25, 2014, two days after August 23, 2014. Thus, Causley's Group Two offense occurred within a year and two days, not within one year.

However, Causley accumulated a Group III offense on January 1, 2014. Causley's January 1, 2014, Third Group offense is more severe than a Group Two offense and the accumulation by Causley of the January 1, 2014, Group Three offense with the August 25, 2014, Group Two offense was a sufficient basis for the MDOC's termination of Causley.

The sole remaining issue is whether Causley met her burden of proof that the MDOC's termination of her was too severe for the conduct Causley engaged in. Having considered all evidence in the record, this tribunal finds as a fact that Causley failed to meet her burden of proof on that issue. This is because Causley had accumulated a Group One offense, a Group Two offense and a Group Three offense within one year. Further, whereas here, a responding agency "acts in accordance with the published policies, rules and regulations of MSPB and the personnel action taken by the responding agency is allowed under said policy the [MEAB] order shall not alter the action taken by the agency...." See, MSPBPM 10.24 (B).

Causley's termination is affirmed and Causley's appeal is dismissed, with prejudice.

The Record is clear MDOC had in effect on March 17, 2014, Staff Call-In Guidelines which set forth MDOC's guidelines for staff call-ins and excessive call-ins. The "Staff Call-In Guidelines" provided the following disciplinary steps for employee violations:

- Three (3) call-ins (unscheduled leave) or three (3) late for duty or any combination of the two within any sixty (60) day period will result in a written counseling session.

- An additional three (3) call-ins and/or tardiness within any sixty (60) day period after receiving a written counseling session, will result in a written reprimand.
- An additional three (3) call-ins and/or tardiness within any sixty (60) day period after receiving a written reprimand, will result in an administrative hearing for a three (3) day suspension from duty without pay.
- An additional three (3) call-ins and/or tardiness within any sixty (60) day period after receiving a three (3) day suspension without pay, will result in an administrative hearing for termination.
- The sixty (60) day period shall begin with an unscheduled call-in. If sixty (60) days pass with no more call-ins, the next call-in will be counted as number one.

The Record shows Causley called into work and did not report to work on the following dates: March 29, 2014, April 11, 2014, April 25, 2014, and May 11, 2014. Causley's calling in and not reporting to work was within the sixty (60) day period in the "Staff Call-In Guidelines," and clearly "clearly constitutes a violation of the MDOC's March 17, 2014, Staff Call-In Guidelines and constituted the Group Two offense of "insubordination, including, but not limited to, 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," as outlined in Subparagraph Number 1 of Appendix II (Second Group Offense) of *the State Personnel Board Manual of Policies, Rules and Regulations updated July 2013*.

In addition to the above offense, the Record clearly shows Causley had received prior disciplinary actions, including several offenses relating to her excessive call ins and absenteeism.

On February 12, 2014, Causley was issued a written reprimand for reporting late for work three (3) times within a sixty (60) day period, constituting a violation of Subparagraph Number 1 of Appendix I (First Group Offense) as outlined in the *State Personnel Board Manual of Policies, Rules and Regulations updated July 2013*.

On January 1, 2014, Causley was issued a written reprimand for calling in on November 8, 9, 2013 and December 19, 2013, constituting a violation of Subparagraph Number 2 of Appendix III (Third Group Offense) as outlined in the *State Personnel Board Manual of Policies, Rules and Regulations updated July 2013*.

On August 23, 2013, Causley was issued a written reprimand for failure to conduct or participate in a “shakedown” at Unit 26 A Building, constituting a violation of Subparagraph Number 1 of Appendix II (Second Group Offense) as outlined in the *State Personnel Board Manual of Policies, Rules and Regulations updated July 2013*.

On July 22, 2013, Causley was issued a written reprimand for refusing to do kitchen logs, constituting a violation of Subparagraph Number 1 of Appendix II (Second Group Offense) as outlined in the *State Personnel Board Manual of Policies, Rules and Regulations updated July 2013*.

On or about September 19, 2013, Causley was provided written counseling for calling in three (3) times in a ninety (90) day period.

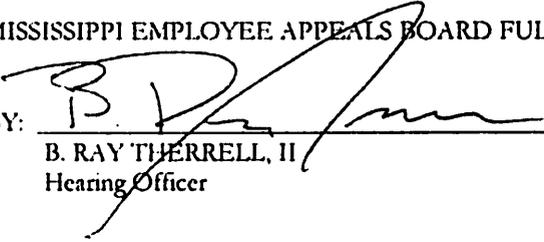
Hearing Officer Watts found Causley, prior to her call ins and not reporting for duty on March 29, 2014, April 11, 2014, April 25, 2014, and May 11, 2014., had been provided with written counseling on her excessive calling in and failure to come to work. Moreover, she had also received a Group III, Subparagraph Number 2 written reprimand on January 1, 2014, for chronic absenteeism, yet Causley continued calling in and failing to report to work on the dates set forth in her August 25, 2014, termination letter after receiving written counseling, and a written reprimand for not properly reporting to work was an act of insubordination, a Group II offense, as defined as in the *State Personnel Board Manual of Policies, Rules and Regulations updated July 2013*.

Having carefully reviewed the testimony and evidence, the MEAB, *en banc*, finds that there is sufficient evidence that Causley committed the above Offenses, and hereby adopts and affirms

Hearing Officer Watts' Findings and Opinion. The decision of the Hearing Officer is hereby Affirmed.

SO ORDERED this the 13<sup>th</sup> day of February, 2015.

MISSISSIPPI EMPLOYEE APPEALS BOARD FULL BOARD

BY: 

B. RAY THERRELL, II  
Hearing Officer