

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

TRACY PITTMAN NEAL

APPELLANT

V.

**FILED**

CAUSE NO. 15-012

**JUN 05 2015**

MISSISSIPPI DEPARTMENT  
OF HUMAN SERVICES

**EMPLOYEE APPEALS BOARD**

RESPONDENT

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ORDER OF DISMISSAL WITH PREJUDICE

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THIS MATTER having come on for telephonic hearing on June 3, 2015, before Officer B. Ray Therrell of the Mississippi Employee Appeals Board, on the Respondent's, the Mississippi Department of Human Services' Motion to Dismiss with Prejudice for failure to state a claim upon which relief can be granted and Officer Therrell finding said motion well taken finds as follows:

1. That on or about April 6, 2015, the Appellant, Tracy Pittman Neal, filed a Notice of Appeal before the Mississippi Employee Appeals Board based upon her termination effective March 24, 2015.

2. That the Appellant was appointed to the position of DHS- Area Social Work Supervisor with the Mississippi Department of Human Services, Division of Family and Children's Services on September 20, 2013.

3. That subsequent to her initial appointment, during her probationary period, the Appellant transitioned to a different position, a time-limited position; and that on May 27, 2014, the Appellant signed an acknowledgment that her employment with the

Mississippi Department of Human Services, Division of Family and Children's Services, was a "time-limited position which is excluded under the Mississippi Code of 1972, as amended, Section 25-9-107(c)(xiv) and is classified by law a non-state service."

4. That the *Mississippi Employee Appeals Board Policy and Procedures Manual Section 2.2.3 Notification of Non-State Service Status* (Effective January 15, 2013 until July 1, 2014) provides:

Each applicant who accepts appointment to a non-state service position shall be given written notice by the appointing authority that permanent state service status will not be attained while employed in that position and that the State of Mississippi is under no obligation to continue their employment in such a position.

Permanent state service status employees who accept appointment to a non-state service position lose their permanent employment status at the time of the appointment, except under the provisions of Mississippi Code Annotated § 25-9-125<sup>1</sup>, and shall be so notified in writing prior to the appointment.

5. That Appellant was notified in writing of her status as a non-state service employee and that her employment could be discontinued, at any time, without cause.

6. That the Mississippi Department of Human Services, Division of Family and Children's Services, exercised its authority to terminate the Appellant as a non-state service employee.

7. That the *Mississippi Employee Appeals Board Policy and Procedures Manual Section 10.7 Rule III* (July, 2014) provides the criteria for who may file an appeal before the

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<sup>1</sup> The provisions of Mississippi Code Annotated § 25-9-125 do not apply in this case.

Employee Appeals Board. That the Appellant's Notice of Appeal does not meet any of the requirements for filing an appeal set forth in Section 10.7 Rule III(D) of the *Mississippi Employee Appeals Board Policy and Procedures Manual*.

8. That the Appellant is a non-state service employee; her Notice of Appeal does not allege discrimination based on race, color, religion, national origin, sex, age, disability, or political affiliation, which are the only grounds available for appealing with a non-state service position.

IT IS THEREFORE ORDERED AND ADJUDGED that the Appellant's appeal in this cause to the Mississippi Employee Appeals Board is hereby dismissed with prejudiced.

IT IS FURTHER ORDERED that the hearing set in this matter on June 8, 2015 is cancelled as moot.

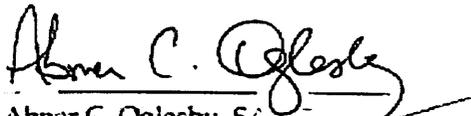
So ordered this the 5<sup>th</sup> day of June 2015.

MISSISSIPPI EMPLOYEE APPEALS BOARD

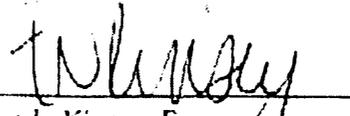
BY: 

B. RAY THERRELL  
HEARING OFFICER

Prepared and approved by:

  
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Agreed as to form only:

  
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