

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

BYRON VAUGHAN

FILED

APPELLANT

VS.

FEB 26 2016

DOCKET NO. 16-003

EMPLOYEE APPEALS BOARD

MISSISSIPPI DEPARTMENT OF CORRECTIONS

RESPONDENT

ORDER

On February 22, 2016, the Appellant filed an appeal with the Mississippi Employee Appeals Board requesting reinstatement from his termination of employment with the Mississippi Department of Corrections.

During the 2015 Mississippi Legislative Session, the Governor signed Senate Bill 2804 into law, which amends Section 25-9-127(5) of the Mississippi Code Annotated to state:

For a period of one (1) year beginning July 1, 2015, the provisions of subsection (1) shall not apply to the personnel actions of the Department of Corrections, and all employees of the department shall be classified as nonstate service during that period. However, any employee hired after July 1, 2015, by the department shall meet the criteria of the State Personnel Board as it presently exists for employment. The Commissioner of Corrections shall consult with the Office of the Attorney General before taking personnel actions authorized by this section to review those actions for compliance with applicable state and federal law.

This legislation made each employee of the Mississippi Department of Corrections non-state service, removing any property right to his or her position. Therefore, the agency is allowed to make personnel decisions without affording the employee the right to appeal an adverse employment decision to the Mississippi Employee Appeals Board.

In addition, Chapter 9.2, D. of the *Mississippi State Employee Handbook* states:

A permanent State Service employee...or Non-State Service employee in...an authorized employment position in an agency which employs State Services employees, may appeal alleged acts of discrimination

...

The Mississippi Department of Corrections currently employs no State Service employees; therefore, alleged acts of discrimination are not appealable.

Based on M.C.A. Section 25-9-127(5), as amended, the Employee Appeals Board lacks subject matter jurisdiction over appeals of any disciplinary matters or alleged acts of discrimination which affect the employees of the Mississippi Department of Corrections for the period of July 1, 2015 through June 30, 2016. This tribunal realizes that Mr. Vaughan's termination letter advised him that he had the right to appeal his termination to the Mississippi Employee Appeals Board, but that is not correct. Therefore, Mr. Vaughan's February 22, 2016, appeal is dismissed, with prejudice.

SO ORDERED, THIS THE 26 DAY OF FEBRUARY, 2016.

  
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MICHAEL N. WATTS  
Chief Hearing Officer