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**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

RAY STANELLE,

Petitioner,

v.

GEORGIA DEPARTMENT OF
CORRECTIONS,

Respondent.

Docket No.:

OSAH-SPB-DIS-1501930-38-Teate

Kevin Westray, Legal Assistant

INITIAL DECISION

I. Introduction

Ray Stanelle requested a hearing after his dismissal from employment by the Georgia Department of Corrections (GDOC). A hearing was held on November 20, 2014 in Atlanta, Georgia. John Duncan, Esq. represented Mr. Stanelle and Robert Jones, Esq., represented GDOC. For the reasons stated below, GDOC's action is hereby **AFFIRMED**.

II. Findings of Fact

1. Mr. Stanelle was employed by GDOC from June 1, 1994 until June 16, 2014, when he was dismissed. Prior to his dismissal, Petitioner was employed by GDOC as an Investigator in the Investigations and Compliance Unit, a position in the classified service. (Testimony of Satonya Payne; Testimony of Ray Stanelle).

2. GDOC Investigators are law enforcement personnel who are required to meet Peace Officer Safety Training (POST) certification requirements. In order to obtain POST Certification, Investigators must pass a physical evaluation, which includes a hearing component. GDOC determined that Mr. Stanelle was no longer fit for duty in a law enforcement position after he failed the hearing component of the physical evaluation. (Testimony of Clay Nix; Testimony of Satonya Payne)

3. Ms. Satonya Payne, an HR Compliance Officer with GDOC, met with Mr. Stanelle. During this meeting, she discussed the results of the hearing examination with Mr. Stanelle and informed him that GDOC would arrange for him to transfer into a position that did not require POST certification, with no loss in pay. Mr. Stanelle indicated to Ms. Payne that he would not accept the transfer and she advised him to take some time to consider it. After the meeting, Mr. Stanelle was placed on administrative leave and relieved of GDOC equipment. Mr. Stanelle's employment status with GDOC did not change after the meeting with Ms. Payne. He remained an Investigator with the Investigations and Compliance Unit. (Testimony of Satonya Payne).

4. On May 29, 2014, during his administrative leave, Mr. Stanelle sent a three-and-a-half page e-mail to Ms. Payne. This e-mail included the following paragraph:

Now for a quick word on your own safety which I care about deeply as I do all citizens and state employees: Next time if you are that much in fear of someone possibly doing harm, pat them down. For all you know I was wearing a personal Glock 357 in my ankle holster. What good would all those "plants" have done had I opened fire? The very thought of people screaming blood splattering on the wall and innocent lives being taken sickens me. Next, if anyone should have a metal detector your[sic] should. I am what you call a sheepdog, I am here to protect the flock. My flock is my family and the citizens of not just Georgia but our nation. Please request that my suggested safety measures are evaluated and put into place. In as much as there are those in the Department who view me to be a threat, If I see you again, I expect to be patted down for your safety, for the safety of the "plants" that are secretly observing me and for my safety as well.

(Respondent Exhibit 1).

5. Ms. Payne interpreted Mr. Stanelle's e-mail as a threat. She brought the e-mail to the attention of Angela Williams, her supervisor. Ms. Williams immediately reported the e-mail to Patricia Smith the HR Director. (Testimony of Satonya Payne).

6. Senior Investigator Eric Peacock, Mr. Stanelle's direct supervisor, subsequently reviewed Mr. Stanelle's e-mail and then forwarded the e-mail to Inspector Clay Nix. Inspector Nix also interpreted the e-mail to be a deliberate attempt to intimidate Ms. Payne. The e-mail was circulated among appropriate leadership personnel in GDOC and the Office of Investigations and Compliance. Based upon the threatening nature of the e-mail, campus security was notified and Mr. Stanelle's access was revoked. (Testimony of Clay Nix; Testimony of Satonya Payne; Testimony of Eric Peacock).

7. Concerned for her safety, Ms. Payne obtained a Temporary Protective Order against Mr. Stanelle from the Superior Court of Coweta County on May 30, 2014. The Coweta County Superior Court later issued a Twelve-Month Protective Order against Mr. Stanelle, enjoining and restraining him from approaching within 200 yards of Ms. Payne, after a hearing on June 26, 2014. (Respondent Exhibit 3, 4; Testimony of Satonya Payne).

8. Patricia Smith brought the e-mail to the attention of Assistant Commissioner Gregory Dozier. After consulting with Smith, Inspector Nix, and GDOC's Legal Services Unit, Assistant Commissioner Dozier made the determination to terminate Mr. Stanelle for violating GDOC's policy on Workplace Violence (Standard Operating Procedure # IVO01-0008). (Testimony of Gregory Dozier; Testimony of Clay Nix).

9. In a letter dated May 30, 2014, GDOC notified Mr. Stanelle that he would be dismissed from employment for the above-described misconduct effective June 17, 2014. Mr. Stanelle was further advised that he would be placed on paid suspension until the date of his termination. Mr. Stanelle filed for an internal review of the adverse action with GDOC on June 27, 2014. After conducting an internal review, Carey Barnes, the Commissioner's Designee for adverse Actions, upheld Mr. Stanelle's dismissal from employment. GDOC provided Mr. Stanelle with notice of

its final action in a letter dated June 30, 2014. (Respondent Exhibit 7).

10. Mr. Stanelle did not dispute that he sent above-described e-mail to Ms. Payne at the hearing on this matter. However, he testified that the purpose of the e-mail was not to threaten Ms. Payne, but to point out the lack of security in her office. Through counsel, Mr. Stanelle argued that GDOC failed to follow internal procedure in responding to the allegations of misconduct. Specifically, Mr. Stanelle contended that his immediate supervisor was required to thoroughly investigate the reported instance of workplace violence pursuant to GDOC's Workplace Violence Policy. (Respondent Exhibit 4; Testimony of Ray Stanelle).

III. Conclusions of Law

1. Under Georgia law, “[c]lassified employees . . . may be dismissed from employment or otherwise adversely affected as to compensation or employment status only if such action is taken in accordance with the rules and regulations of the State Personnel Board governing adverse actions and appeals for classified employees.” O.C.G.A. § 45-20-8(a) (2014). The procedure for adverse action against a classified employee’s employment must include, at a minimum, providing the classified employee with reasons for the adverse action and “an opportunity to file an appeal and request a hearing which may be held before either the [State Personnel Board] or an administrative law judge.” O.C.G.A. § 45-20-8(b) (2014).

2. State Personnel Board (SPB) Rule 24 defines “adverse action” as “a disciplinary action taken by an [employer] which results in the suspension without pay, demotion, reduction in salary, or dismissal of a permanent employee.” GA. COMP. R. & REGS. 478-1-.24(7).¹ Pursuant to SPB Rule 24, employers may dismiss a classified employee because of:

- (a) negligence or inefficiency in performing assigned duties
- (b) inability or unfitness to perform assigned duties;
- (c) insubordination;
- (d) misconduct;
- (e) conduct reflecting discredit on the department;
- (f) commission of a felony or other crime involving moral turpitude;
- (g) chronic tardiness or absenteeism; or
- (h) failure to report for or remain at work without justifiable cause;
- (i) failure to process performance appraisals in a timely manner; or
- (j) political activity in violation of 478-1-.08

GA. COMP. R. & REGS. 478-1-.24(7)(b)(2) (2013).

3. An employee against whom adverse action is proposed must be provided with “[a]t least fifteen (15) calendar days advanced written notice of the proposed action[;] . . . [a] reasonable time in which to refute such charges; and . . . [w]ritten determination of the final action.” GA. COMP. R. & REGS. 478-1-.24(7)(a). The notice of proposed action and the written determination must include the information prescribed in SPB Rule 24. GA. COMP. R. & REGS. 478-1-

¹ The SPB Rules and Regulations were reorganized effective June 20, 2014. Therefore, the SPB Rule sections cited herein are those that were in effect at the time of the adverse action at issue.

.24(7)(c), (e).


4. GDOC terminated Mr. Stanelle for misconduct. Specifically, GDOC determined that Mr. Stanelle's conduct violated its Workplace Violence Policy, which provides that "[a]ny violent act or threat of violence will result in appropriate disciplinary action, up to and including dismissal, removal from the workplace and/or criminal charges." GA. DEP'T OF CORRECTIONS, STANDARD OPERATING PROCEDURES, SOP #IVO01-0008. GDOC's policy defines "workplace violence" to include "any act which would be interpreted by a reasonable person as abusive, threatening, intimidating, disrupting, or violent behavior committed by a state employee, visitor, contractor or vendors in the work location or threatened to be carried out at the work location or in connection with [GDOC] employment." *Id.* According to the relevant policy definition, the individual need not act with intent to intimidate in order for his or her conduct to constitute a violation of GDOC's Workplace Violence policy.

5. The Court concludes that Mr. Stanelle's e-mail violated GDOC's Workplace Violence Policy inasmuch as a reasonable person would interpret segments of the e-mail as intimidating. Accordingly, GDOC's dismissal of Mr. Stanelle for misconduct was proper. Further, GDOC's adverse action comported with the procedural requirements expressed in SPB Rule 24.

IV. Decision

In accordance with the foregoing Findings of Fact and Conclusions of Law, GDOC's dismissal of Mr. Stanelle's employment is **AFFIRMED**.

SO ORDERED, this 17th day of December 2014.


Steven W. Teate
Administrative Law Judge