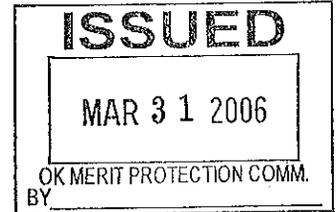


BEFORE THE OKLAHOMA MERIT PROTECTION COMMISSION

STATE OF OKLAHOMA

LEO C. BRAY)
)
 Appellant,)
)
 v.)
)
 DEPARTMENT OF PUBLIC)
 SAFETY,)
)
 Appellee.)

Case No: MPC-06-068



FINAL ORDER

This matter comes on for hearing on the 24th day of March, 2006, before the duly appointed, undersigned Administrative Law Judge at the offices of the Oklahoma Merit Protection Commission, Oklahoma City, Oklahoma. The Appellant, Leo C. Bray, appears in person and by legal counsel, Daniel J. Gamino. The Appellee, Department of Public Safety, appears by and through Chief Legal Counsel, Wellon B. Poe. Also present for Appellee was Table Representative, Kevin Ward, Commissioner of Public Safety.

This Administrative Law Judge had previously reviewed the file, conducted an extensive pretrial conference and status conference, and following deliberation and study, made rulings on numerous pretrial motions. Based on the pleadings, pretrial rulings and stipulations of the parties, the undersigned Administrative Law Judge issues the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. The Appellant, Leo C. Bray (hereinafter "Bray"), was a classified employee of the Oklahoma Department of Public Safety (hereinafter "DPS") serving as a Trooper with the Oklahoma Highway Patrol. On October 18, 2005 a pre-termination hearing was held to consider proposed disciplinary action to be taken against Bray.
2. On November 2, 2005, DPS provided Bray with a Notice of Termination, dated November 1, 2005. This Notice of Termination was provided to Bray more than ten (10) days after the date of the pre-termination hearing. The discipline was

based upon a finding that Bray abused his authority by accessing and viewing peer evaluations and discussing them with others, in violation of DPS policies.

3. Bray filed a Petition for Appeal herein, requesting review of the adverse action taken by DPS. The matter was set for hearing on March 24, 2006.
4. The parties stipulated that, after extensive discovery and negotiation, the preponderance of the evidence would not support the disciplinary action taken by DPS.

CONCLUSIONS OF LAW

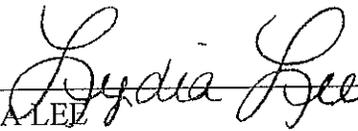
1. The parties stipulate that the Oklahoma Merit Protection Commission has jurisdiction over the parties and subject matter in the above entitled cause and the filing of the Petition for Appeal was timely.
2. Any finding of fact which is properly a conclusion of law is so incorporated herein as a conclusion of law.
3. The Appellee DPS had the burden to prove by a preponderance of the evidence that just cause existed for the adverse action and that the discipline imposed was just.
4. The parties stipulate that just cause does exist for the adverse action, however the severity of the discipline imposed is not justified.
5. The parties stipulate that the proper disciplinary action to be imposed upon Bray, given all mitigating circumstances, is a twenty (20) day suspension without pay.
6. The parties stipulate that an appropriate attorney fee of nine thousand dollars (\$9000.00) should be awarded to Bray's attorney.

ORDER

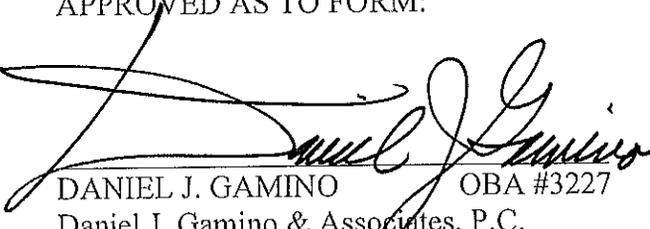
WHEREFORE, PREMISES CONSIDERED, IT IS ORDERED that Appellant's appeal be **DENIED IN PART** and **SUSTAINED IN PART**. It is further ORDERED that discipline is warranted in this case but the termination of Appellant should be set aside. IT IS ORDERED that the Appellant be suspended without pay for 20 working days effective November 1, 2005, and that following that suspension, Appellant be reinstated to his former position as Trooper, Oklahoma Highway Patrol, with full back pay and benefits to date.

IT IS FURTHER ORDERED that Appellee Oklahoma Department of Public Safety be ordered to pay costs and attorney fees to Appellant's legal counsel Daniel J. Gamino in the amount of Nine Thousand Dollars (\$9,000.00).

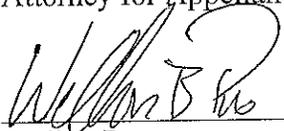
Dated this 31 day of March, 2006.


LYDIA LEE
ADMINISTRATIVE LAW JUDGE

APPROVED AS TO FORM:


DANIEL J. GAMINO OBA #3227
Daniel J. Gamino & Associates, P.C.

3315 NW 63rd Street
Oklahoma City, OK 73116
Telephone: (405) 840-3741
Fax: (405) 848-7181
Attorney for Appellant

 *obj FF 44*
Wellon Poe OBA #12440

Chief Legal Counsel
Department of Public Safety
PO Box 11415
Oklahoma City, OK 73136-1415
Telephone: (405) 425-2424
Fax: (405) 425-2660
Attorney for Appellee