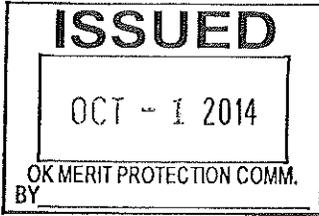


OKLAHOMA MERIT PROTECTION COMMISSION

STATE OF OKLAHOMA

SHARON WARRIOR,)
Appellant)
vs.)
DEPARTMENT OF CORRECTIONS,)
Appellee)

CASE NO. MPC 14-163



FINAL ORDER

Hearing on this matter was held before the undersigned duly appointed Administrative Law Judge on August 28, 2014 at the Merit Protection Commission offices in Oklahoma City, Oklahoma. Appellant Sharon Warrior appeared *pro se* and represented herself throughout the proceedings. Appellee, Department of Corrections (hereinafter referred to as "DOC"), appeared by and through its Counsel Michelle Miniotta, Assistant General Counsel, and agency representative Sharon McCoy, Warden, Eddie Warrior Correctional Center. At the conclusion of the hearing on August 28, 2014, the record remained open until September 8, 2014, upon request of the parties to submit written closing arguments.

Appellant, Correctional Case Manager IV at the Eddie Warrior Correctional Center in Taft, OK was demoted to Correctional Case Manager III, a non-supervisory position, effective February 10, 2014 for failure to devote full time, attention, and effort to her duties and for insubordination, in violation of Merit Rule 455:10-11-16 and DOC Operating Procedures OP-110215.

Whereupon, the sworn testimony of witnesses for both Appellee and Appellant was presented, along with Exhibits, which were admitted and are incorporated herein and made a part hereof. Accordingly, after careful consideration of all evidence, testimony, and exhibits, the undersigned Administrative Law Judge issues the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

Appellant has been employed with DOC for 24 years, all of which has been at the Eddie Warrior Correctional Center (hereinafter referred to as EWCC). Since 2006 Appellant has held the position of Case Manager Coordinator (Correctional Case Manager IV), a supervisory position, the duties of which include supervising and managing the records department. This department maintains up-to-date, accurate records tracking all offender movement in the system to lower or higher security, and tracking credits earned and lost, which are used to calculate and determine discharge dates. (Testimony of Deputy Warden Gregory Breslin; Jt. Ex. 2) Appellant's responsibility for the records department had been taken away from her by the previous warden, but returned to her in March 2013 by Warden Sharon McCoy, who was named warden in November 2012, after the prior warden's departure. Appellant was demoted from her position effective February 10, 2014 based upon her alleged failure and refusal to (1) properly train and supervise the records department, (2) comply with the warden's and the deputy warden's directives, (3) effectively communicate with her staff, and (4)

for not being a team player (Testimony of Warden McCoy; Jt. Ex. 24), in violation of Merit Rule 455:10-11-16 and DOC Operating Procedures OP-110215.

The February 4, 2014 Notice of Demotion states the acts and omissions constituting grounds for Appellant's demotion:

- 1. As Case Manager Coordinator you failed to ensure the Records Officers are following standard practices to monitor and track Consolidated Record Cards [CRC's] and Offender Field Files that are maintained in the Records Department.*

During his 25 year history with DOC, Deputy Warden Gregory Breslin, Appellant's immediate supervisor, had experience as a records officer at EWCC, as well as experience as a case manager, unit manager, and case manager supervisor. He testified that the Consolidated Record Card or CRC is a composite of every movement and action affecting an offender and is used to determine discharge dates and movement within the system. The CRC, along with all the other offender records, must be accurately maintained to ensure that offenders are discharged and moved timely according to law, and to prevent errant discharges, early or late releases from DOC custody. Appellant failed and refused to establish systems and procedures suggested by Deputy Warden Breslin to help ensure accuracy in maintaining these records, and, further, repeatedly refused to follow directives from Warden McCoy establishing procedures for posting credits and processing transfer packets designed to ensure accurate recordkeeping and timely movement of offenders. Additionally, Appellant provided instructions to her records officers that were contradictory to the directives from Warden McCoy and Deputy Warden Breslin. (Joint Exhibits 59, 41, 34, 35, and 20, 21, 22)

2. *There had been no attempt to train or work with Records Officers from May 2013 until December 2013, only after offender Huckleberry was errantly discharged. On September 18, 2013 in an employee meeting you were asked how is communication with your Records staff; you replied "not good". You were informed at that time by the Deputy Warden that it is your responsibility to improve communication and to ensure the Records Department is run correctly.*

Shawna Robinson took the position of Correction Records Officer on May 13, 2013. She testified that the only "training" she received from Appellant was receipt of a list of policies Appellant told her she should study and she should familiarize herself with them. Three days into her new job, Appellant asked her, "Where are we on the policy review so far?" (Joint Ex 43) Ms. Robinson indicated that she eventually reviewed all 10-15 policies, some 70+ pages with revisions; however, while the policies provided an overview of standards and objectives, she stated, they did not provide guidance on how to accomplish these standards and objectives. It wasn't until mid-December, 2013, after a recordkeeping error led to the errant discharge of an offender, that Appellant began training Ms. Robinson. (Joint Ex 3) At the time, Appellant apologized to Ms. Robinson stating, "I'm sorry it has taken me so long to get over there to train you but there were other people wanting to run Records." (Joint Ex 3)

Cari VanOrden had worked in Records under the previous warden, helping to prepare for an audit. When Warden McCoy reassigned Records as part of Appellant's duties, Appellant took away Ms. VanOrden's records duties and assigned her secretarial duties. Ms. VanOrden testified that there was little to no verbal communication from Appellant, even simple greetings when passing each other. Appellant's communication style was always by email, written in all caps, which made her feel as though Appellant was shouting at her. (Joint Exhibits 29, 35, 36, 39, 41)

Further, she had received no formal training in the records department, and “have never been instructed either orally or in writing as to all the tasks that need to be performed weekly to ensure all changes needed have been posted to rosters for facility use.” (Joint Ex 36)

Deputy Warden Breslin met with Appellant on September 18, 2013 to counsel with her concerning her behaviors that needed improvement, including her communication with staff. When he asked her how communication was with her staff. She replied, “Not good.” (Joint Ex 2, page 8) Mr. Breslin testified that in Appellant's position she was required to work closely with case managers and others in the system to keep records of information necessary to ensure accurate movement and classification of offenders. However, Warden Sharon McCoy testified that she received complaints from other staff that during the work day Appellant would have her door closed and locked, lights off, and wouldn't answer the door; and that Appellant would deny she had ever received offender transfer packets sent from counseling staff to Appellant for review and processing. Warden McCoy testified that she talked with Appellant and her staff on more than one occasion between May 2013 and January 2014 concerning communication issues, establishing procedures, and following instructions and directives, and other concerns.

3. *Failure to take ownership of your area of responsibility and deliberate inaction to train and effectively work with the Record Officers contributed to the recent errant discharges listed below.*

December 9, 2013 Offender Huckleberry was given 97 achievement credits that she was not eligible for and she was discharged to the streets. On December 10, 2013 upon you return to work you reviewed Huckleberry's file and informed the Deputy Warden that Offender Huckleberry's credits were denied in September 2013. Offender

Huckleberry was taken into custody and returned to the facility from Enid, Oklahoma on December 10, 2013.

When you were asked why the achievement credits were not posted to the Consolidated Record Card in September indicating no credit received due to 85% crime, you stated it should have been posted. Offender Huckleberry was released 40 days premature posing a risk to the community.

Warden McCoy testified that the statement made by Appellant to Shawna Robinson on December 17, 2013 following Offender Huckleberry's early errant discharge indicated to the Warden that Appellant's actions were deliberate and that she is not a team player. ("I'm sorry it has taken me so long to get over there to train you but there were other people wanting to run Records." (Joint Ex 3)

In 2009 Offender Huckleberry received a six-year sentence for child abuse. The sentence carried a stipulation that she must complete 85% of her sentence before she was eligible to receive any credits toward lowering that sentence. (Joint Ex 4) On July 26, 2013 Offender Huckleberry received her Associate of Arts Degree from Connors State College and a request to post achievement credits was sent through to Records. Cari VanOrden received the request but noted that Offender Huckleberry was not eligible to receive credits because she had not completed 85% of her sentence. She asked Appellant how the matter should be handled. Appellant advised Ms. VanOrden to attach a note to the file and return it to the unit staff for them to make the correction. (Joint Ex 7)

On December 9, 2013 Shawna Robinson received paperwork from Offender Huckleberry's case manager indicating that she had completed her Associate Degree and was eligible for 100 achievement credits, that Offender Huckleberry only had 98

more days to serve, and was eligible for immediate discharge. (Joint Ex 4, page 2) The memo from the EWCC College Coordinator indicated that the offender was eligible for the credits on December 4, 2013 (Joint 4, page 7). Ms. Robinson contacted Mr. Breslin, as Appellant was out of the office that day. She completed a discharge audit, prepared the discharge paperwork, and the offender was discharged as sentence complete. (Joint Ex 4, page 2) Overlooked in the file was the Unofficial Academic Record which indicated that the degree had been awarded July 26, 2013, at a time when the offender was ineligible to receive credits. (Joint Ex 4, page 8) The following day when Appellant returned to work, she discovered the error. Offender Huckleberry was found and returned to EWCC on December 10, 2013, to serve her remaining sentence. She was eligible to discharge January 17, 2014. (Joint Ex 4, page 1)

It is the Records Department's responsibility to monitor, calculate, and audit offender records to ensure their accuracy. When an error is discovered, it is up to Records, not unit staff, to make the correction. Had Appellant instructed Cary VanOrden to followed proper procedures and post the correction on the OMS or the CRC, it is unlikely that Offender Huckleberry would have been wrongly released.

4. On December 27, 2013, it was discovered Offender Glover should have discharged in May 2013. The Offender's Field File with the Consolidated Record Card inside the file was maintained in the Records Department from March 2013 until December 19, 2013. You had no system in place to monitor and track Field Files, Consolidated Record Cards or Legal Commitment files. There was no 30-60 day discharge list completed for the month of December 2013 as required.

Beginning in March 2013, the entire staff of the Records Department, as well as the supervisor of the Records Department changed. Records Officer Jessica Ford left DOC in mid-March 2013. The prior warden had supervised the Records Department,

and when he left DOC, Warden McCoy expanded Appellant's duties to take over records supervision. After Appellant took over the Records Department she removed the records responsibilities from Cari VanOrden, the only employee with any Records continuity from the prior administration, and assigned her secretarial duties. At the same time that Records Officer Ford was preparing to leave the agency in mid-March 2013, the Sentence Administration Auditor was completing a full audit of Offender Glover's file. She returned her CRC and field File to Ms. Ford just before Ms. Ford left the agency, and the files remained in the Records Office unbeknown to any of the new Records staff until December 27, 2013 when Sentence Administrator Kevin Moore discovered that Offender Glover should have been discharged in May, 2013 and began searching for her files. His inquiries led to discovery of Offender Glover's CRC and Field File in the Records Department. (Joint Ex 8)

The checks and balance procedures in place under the prior administration were not maintained under the new team. Appellant had no procedures in place to safeguard offenders' records, account for CRC cards, and ensure that offenders do not fall through the cracks.

All of the parties involved in the errant discharges of Offender Huckleberry and Offender Glover received discipline.

5. You failed to turn in December's monthly reports as required.

December monthly reports were required to be turned in by noon January 2, 2014; however Appellant did not turn in her report until the morning of January 3, 2014, after a reminder call from the Deputy Warden's secretary. (Joint Ex17) Appellant was

the only supervisor who failed to turn in her report on time. (Joint Ex 17) She also failed to turn in a timely report in October. (Joint Exhibits 14, 15, and 16)

6. *You failed to conduct Case Manager Supervisor Meetings for September and October as required.*

Monthly meeting reports and agendas submitted to Warden McCoy are passed on to the Deputy Director, Institutions for her review. Upon learning that Appellant did not conduct a case manager meeting for October 2013, Deputy Director Laura Pitman, Ph.D. responded to Warden McCoy:

“There was not a meeting in September either – this is not acceptable. Please ensure meetings are held every month.”

(Joint Ex 19)

7. *You failed to return packets within the five (5) working days as directed by the Warden's written process for Transfer Packet dated June 12, 2013 and your specified job duties noted in your Performance Management Process.*

On June 12, 2013, Warden McCoy responded to Deputy Director Laura Pitman, Ph.D.'s inquiry concerning transfer packet procedures at EWCC to ensure timely processing, tracking, quality assurance and accuracy. (Joint Ex 20) Warden McCoy established a procedure and protocol for EWCC managers, supervisors, the Deputy Warden, and the Warden to follow, as well as Appellant, as the Case Manager Supervisor. Pursuant to that protocol:

- The Case Manager supervisor has five (5) working days to review the packets for quality assurance and return them to the Deputy Warden's office to be logged and forwarded to the Warden for review and signature.
- ...
- The Case Manager Supervisor will scan all reviewed packets to Population within three (3) working days and forward a list via email to the Deputy Warden's Office to be logged as completed.
- Packets returned for corrections to the Units by the Case Manager Supervisor will be followed by an email to the Deputy Warden notating the name, number and reason for return and the log will be updated. Unit

staff has two (2) working days to deliver the corrected packet to the Deputy Warden's office for processing.

Appellant was counseled repeatedly to follow the directive concerning timely review and processing of transfer packets. Yet Appellant was continually late. (Joint Ex 22) When asked by Deputy Warden Breslin why the packets were consistently late and to justify each late packet, Appellant failed to respond as directed. (Joint Ex 21)

Appellant alleges that the errant discharges of Offenders Huckleberry and Glover "were the result of deliberate inaction and misdirection by the Deputy Warden", and that the disciplinary procedure "has been manipulated for the sole purpose of 'making me join in'." Appellant further alleges that the testimony by agency witnesses represents "an intentional and collaborative effort on the part of EWCC administration to create errors – endangering all stakeholders – in order to create situations of error." This administrative law judge finds no evidence in the record to support Appellant's allegations. On the contrary, both Deputy Warden Breslin and Warden McCoy made every effort to correct Appellant's behavior to get her to comply with established procedures and directives required by all employees at EWCC. No organization can exist if every employee is allowed to do whatever she or he pleases in whatever manner desired. Systems are established for efficiency, continuity, predictability, and to help prevent errors. Accuracy and timeliness in maintaining offender records is imperative. As Deputy Warden Breslin stated, movement of people efficiently through the system is the priority at EWCC. Failure to do so effects people's lives and costs money in lawsuits.

Both the Deputy Warden and the Warden met with Appellant numerous times to work with her to get her to do her job. Between them, Mr. Breslin or Ms McCoy met with Appellant at least seven documented times between June 5, 2013 and January 14, 2014, often about the same issues:

- 6-5-13: untimely monthly reports
- 6-24-13: repeated failure to leave an acting supervisor in her absence
- 7-5-13: 5-day packet requirement
- 9-18-13: Failure to leave acting supervisor; failure to properly post achievement credits; return agency laptop; poor communication with her staff; moving offices and hiring new administrative assistant
- 11-15-13: untimely monthly reports; missed case management meetings; complaint of unprofessionalism by Parole Process Unit; inaccurate parole tracking form and placement; late staff time sheets
- 1-8-14: late monthly reports; failure to leave acting supervisor
- 1-14-14: repeated use of incorrect orientation form; incorrect application of good conduct credits

(Joint Ex 2, pages 6, 7, and 8)

Progressive discipline was employed to attempt to correct Appellant's behavior:

On June 7, 2013 a Letter of Reprimand was issued for Appellant's failure to conduct the required 30-60 day audit of offender files, which resulted in an errant discharge. When the deputy warden conducted the audit it was found that credits which had been earned by the offender had been sent to Records and were in the offender's file, but had not been posted, resulting in the offender's late discharge. The audit also uncovered the dates on two other discharges were incorrectly calculated and were off by one day; 13 community packets were found in Appellant's office beyond the 20 day requirement to process; earned credits dating back to March 2013 were found that had not been posted, and CRC's had not been posted since February 2013. (Joint Ex 27)

On August 16, 2013 Appellant received a three (3) day suspension without pay for insubordination after repeatedly failing to leave someone acting in her absence after

being specifically directed by the warden to do so; for failing to complete an in-service training as directed; and for failing to provide required documentation for the 2012 Programs Report. (Joint Ex 28)

Appellant exhibited intentional and repeated insubordination, with no apparent desire or attempt to comply with directives of her superiors. Warden McCoy testified that she considered discharge of Appellant, but took into account her 24 years with DOC, and her belief that Appellant could work effectively alone, even though she could not work well with others.¹

This administrative law judge finds that Appellee has proven by a preponderance of the evidence that Appellant violated Merit Rule 455:10-11-16 and DOC OP-110215 and that just cause exists for Appellant's demotion.

CONCLUSIONS OF LAW

1. The Oklahoma Merit Protection Commission has jurisdiction over the parties and subject matter in the above-entitled matter.
2. Any findings of fact that are properly conclusions of law are so incorporated herein as conclusions of law.
3. Merit Rule 455:10-11-14 states that a permanent classified employee may be demoted or discharged for misconduct, insubordination, inefficiency, willful violation of the Oklahoma Personnel Act and Merit Rules, conduct unbecoming a public employee, and any other just cause.

¹ Warden McCoy indicated that she did not know why the prior warden removed records supervision from Appellant's duties. Perhaps the warden's own experience with Appellant has provided a possible answer to this question.

4. Merit Rule 455-10-11-16(a) states that a permanent classified employee may be demoted for any reason set forth in 455-10-11-14.

4. Merit Rule 455:10-9-2(f)(1) states that the Appellee bears the burden of proof in an adverse action and must prove by a preponderance of the evidence that just cause exists for adverse action and that the discipline imposed was just.

5. DOC Policy OP-110215 Section I A(1), *Establishment of Rules and Code of Conduct*, requires employees (1) to devote full time, attention, and effort to their assigned duties during assigned hours of duty.

6. DOC Policy OP-110215 Section II *Duties and Responsibilities*, A(1) *Compliance* states that employees must comply with all department policies, procedures, operations memoranda, administrative memoranda, and other written or verbal directives, including the lawful orders or directives of DOC supervisors and managers.

7. DOC Policy OP-110215 Section II *Duties and Responsibilities*, A(2) *Compliance* states that any failure to carry out the lawful directives or orders of supervisors/managers, or any conduct towards a supervisor/manager which disregards or is disrespectful of the authority or office of the supervisor/manager, will be considered insubordination.

12. Appellee, Department of Corrections, has met its burden to prove, by a preponderance of the evidence, that just cause exists to discipline Appellant Sharon R. Warrior, and that the discipline imposed – demotion of Appellant from Correctional Case Manager IV to Correctional Case Manager III -- was just under the circumstances.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the undersigned Administrative Law Judge that the petition of Appellant is hereby **DENIED**.

DATED: this 30th day of September, 2014.



Annita M. Bridges, OBA # 1119
Administrative Law Judge
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