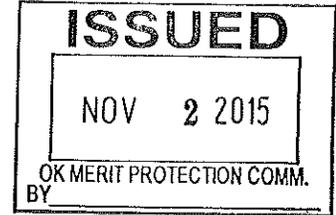


**OKLAHOMA MERIT PROTECTION COMMISSION
STATE OF OKLAHOMA**

SHANNON JONES,)
)
 Appellant,)
)
 v.)
)
 OKLAHOMA DEPARTMENT OF)
 HUMAN SERVICES,)
)
 Appellee.)

Case No. MPC-15-118



FINAL ORDER

This matter came on for hearing on the merits before the undersigned duly appointed Administrative Law Judge on the 19th and 20th days of October, 2015, at the Merit Protection Commission offices in Oklahoma City, Oklahoma. Appellant, Shannon Jones (“Ms. Jones” or “Appellant”), was present in person and by counsel of record, Daniel J. Gamino. Appellee, Department of Human Services (“DHS” or “Appellee”) appeared by and through counsel, John E. Douglas, and table representative, Ken Province.

The record was opened and the hearing began. Arguments of Appellant and Appellee’s counsel were heard, and the sworn testimony of six witnesses for Appellant and seven witnesses for Appellee was received. Exhibits were introduced as Exhibits 1 - 25, and Protected Exhibits 1-12, without objection from either party. All Protected Exhibits are subject to the Protective Order issued by the undersigned Administrative Law Judge on October 19, 2015. All Exhibits and Protected Exhibits are incorporated herein and made a part hereof.

After careful consideration of the record, including all relevant evidence, testimony, and exhibits, the undersigned Administrative Law Judge issues the following case background, summary of testimony, findings of fact, conclusions of law, and order.

CASE BACKGROUND

Ms. Jones was a permanent classified employee of Appellee. At the time of her termination, Ms. Jones worked as a Social Services Specialist II in the Department of Human Services, Atoka County. Appellant was terminated effective at the end of her shift on March 20, 2015 on the grounds that she (1) improperly used the DHS computer system, and (2) falsified documentation to obtain Supplemental Nutrition Assistance Program (“SNAP”) benefits for her own use. Appellant was discharged, pursuant to 74 O.S. § 840-6.5, OKDHS:2-1-11, and Merit Rule 455:10-11-17, for allegedly violating the following laws and regulations:

- 21 O.S. § 1953 [Oklahoma Computer Crimes Act];
- OAC 340:2-1-8 [Employee ethics and other employment];
- OKDHS:2-1-7(i)(2)(A) [Unauthorized disclosure of confidential information];
- OKDHS:2-1-7(i)(2)(F) [Dishonesty];
- OKDHS:2-1-7(i)(2)(I) [Misuse of state property or equipment]; and
- OKDHS:2-1-7(i)(5) [Conduct unbecoming a public employee],

On February 18, 2015, Appellee gave Ms. Jones Notice of Proposed Formal Disciplinary Action Discharge [Exhibit 1], and, as supporting documentation, a probable cause affidavit signed by both DHS Office of Inspector General Senior Agent, Chris Comer and a Judge of the District Court of Atoka County [Exhibit 2]. Two days later, on February 20, 2015, DHS provided Ms. Jones with additional documentation in the form of the Office of Inspector General investigative report dated February 5, 2015 [Exhibit 3]. A pre-termination hearing was conducted on March 10, 2015 [Exhibit 12]. On March 20, 2015, DHS issued its Notice of Final Formal Discipline Discharge in which Ms. Jones was terminated for violation of the policies and statute stated above [Exhibit 4]. Ms. Jones timely instigated this appeal.

The basic allegation DHS made against Ms. Jones was that she improperly accessed DHS records to obtain an EBT card in the name of a former DHS client who will be referred to herein as “KM”, and then used the EBT card for her own benefit. KM had previously received SNAP benefits, but when she did not submit an application for renewal, her benefits expired in 2013. DHS alleges that in May of 2014, after KM’s benefits expired, Ms. Jones submitted an application in KM’s name for renewal of SNAP benefits. After the application was referred to Ms. Jones for review, Ms. Jones recommended approval of the benefits. SNAP benefits in the amount of \$750.00 per month were approved to KM. Subsequently, a replacement EBT card was issued in KM’s name. After its issuance, KM’s EBT card was used in transactions in which Ms. Jones’ personal debit card was also used. KM, who by the time of the SNAP application subject to this appeal occurred resided in and received benefits from North Dakota, denied applying for SNAP benefits in Oklahoma in May of 2014, and denied ever receiving or using her replacement EBT card. Ms. Jones denied improperly accessing KM’s records, denied applying for SNAP benefits in KM’s name, and denied receiving or using KM’s EBT card.

SUMMARY OF TESTIMONY

The testimony of thirteen witnesses, properly sworn and under oath, was taken and was made part of the record. Six witnesses were offered by Appellee. Seven witnesses were offered by Appellant. The testimony given is summarized as follows:

Clint Lee (Appellee Witness):

Clint Lee is a global investigator for Walmart. Mr. Lee was contacted by DHS investigator, Chris Comer, and asked to provide information regarding the use of KM’s EBT card at Walmart stores in Oklahoma. After investigating the matter, Mr. Lee provided a spreadsheet to Mr. Comer [Protected Exhibit 1, Pages 40-41] detailing certain transactions in

which KM's EBT card was used at Walmart stores in Atoka and Durant, Oklahoma. Mr. Lee testified that Pages 40 and 41 of Protected Exhibit 1 are meant to be read side by side, with page 40 constituting the beginning columns of his spreadsheet, and page 41 constituting the ending columns.

Mr. Lee explained that the account numbers shown on his spreadsheet are not the actual numbers of EBT or debit cards that were used at Walmart. Rather, Walmart's computer automatically assigns a Walmart generated number to every card used in its stores. The Walmart generated numbers are shown on the spreadsheet. By cross-referencing the Walmart generated numbers of the EBT cards and debit card used in the Walmart transactions to the actual card numbers stored in Walmart's computer system, Mr. Lee determined that KM's EBT card was assigned the Walmart generated account number ending in 7901 ("WM# 7901"), and Ms. Jones' personal debit card was assigned the Walmart generated account number ending in 8295 ("WM# 8295"). In addition, Mr. Lee determined that Ms. Jones' personal EBT card was assigned the Walmart generated account number ending in 7631 ("WM# 7631"). Mr. Lee testified that the Walmart generated account number stays with each card to which it is assigned permanently.

Mr. Lee testified that, by examining Walmart's records as shown on Protected Exhibit 1, Pages 40-41, he could determine that on June 14, 2014, Ms. Jones' personal EBT card ending in WM# 7631 was used in the same transaction with Ms. Jones' personal debit card ending in WM# 8295 at the McAlester, Oklahoma Walmart, and that the total charge of the transaction, in the amount of \$46.17, was divided and paid \$9.88 with Ms. Jones' personal EBT card, and \$36.29 with Ms. Jones' personal debit card. Mr. Lee further testified that Walmart's records, as reflected on Protected Exhibit 1, Pages 40-41, show that Ms. Jones' personal debit card and the EBT card

issued to KM were used in the same transactions at Oklahoma Walmarts on three occasions, as follows:

<i>Date of Transaction</i>	<i>Walmart Store</i>	<i>Total Charge</i>	<i>Amount Charged To KM EBT Card WM# 7901</i>	<i>Amount Charged to Jones Debit Card WM# 8295</i>
7-16-2014	Atoka, OK	\$ 73.43	\$ 9.33	\$ 64.10
8-19-2014	Durant, OK	\$ 35.63	\$ 8.66	\$ 26.97
8-30-2014	Durant, OK	\$225.78	\$203.94	\$ 21.84

Mr. Lee testified that the spreadsheet he prepared does not show the personal identification number (PIN) used for any of the cards at issue, the identity of the person who presented the card at the register, whether the person presenting the card was alone, what was purchased in the transaction, or what type of vehicle was driven to the store. Mr. Lee did not interview anyone or review video of the transactions. Mr. Lee testified that Walmart generally keeps video of transactions for thirty days, but the time can vary depending on the size of a store's computer hard drive and the amount of store activity. Mr. Lee was unaware how long either the Durant, Oklahoma or Atoka, Oklahoma stores keep video of transactions.

The undersigned found Clint Lee to be a credible witness.

Chris Comer (Appellee Witness):

Chris Comer is a DHS Investigator III, and works out of the DHS Office of Inspector General's McAlester, Oklahoma field office. His duties include investigating crimes against DHS and its programs. Mr. Comer investigated the allegations upon which Ms. Jones' termination was based, and issued the investigative report entered as Protected Exhibit 1.

Mr. Comer testified that DHS was contacted by North Dakota because the Public Assistance Reporting Information System (“PARIS”) showed that KM was receiving food stamp benefits in both North Dakota and Oklahoma. Mr. Comer determined that KM’s Oklahoma food stamp case was originally certified through April or May of 2013. From review of the records, he determined that KM had moved to North Dakota, and that her original Oklahoma SNAP benefits were used in Oklahoma prior to her move, and in North Dakota toward the end of the Oklahoma certification. He determined that all of KM’s North Dakota benefits were used in her hometown in North Dakota. Through his investigation, Mr. Comer determined that KM was approved for food stamp benefits in both North Dakota and Oklahoma at the same time. He testified that because Oklahoma was the second state in which an application was filed, the case was treated as an Oklahoma fraud case [Protected Exhibit 7].

Mr. Comer testified that KM called the DHS Office of Inspector General around September 16, 2014, to report that although she had an open Oklahoma SNAP case, she had not lived in Oklahoma in over a year. She stated that she currently received SNAP benefits in North Dakota and that she lives in North Dakota with her for children. She stated that she had not visited Oklahoma in the last year and that the only person she could think of who might have applied for Oklahoma benefits in her name is her former boyfriend, BA, who lives in Daisy, Oklahoma. The notes of KM’s call are shown at Protected Exhibit 1, Page 5.

Mr. Comer contacted KM by telephone, and spoke to her in person only once. KM made no reference to Ms. Jones in the interview. Mr. Comer made no contemporaneous report about their conversation. He reviewed KM’s food stamp usage in North Dakota based on records provided by North Dakota, and in Oklahoma from DHS records, and determined that KM was receiving benefits in both states. Based on his phone interview of KM and review of KM’s food

stamp usage records and work records at a Walmart in North Dakota [Protected Exhibit 1, Page 19], Mr. Comer determined that KM had not applied for SNAP benefits through Oklahoma DHS in 2014, returned to Oklahoma to obtain her new EBT card, and was not a suspect in the investigation.

Mr. Comer attempted but failed to locate KM's former boyfriend, BA, who KM indicated was the only person she could think of who might have applied for Oklahoma benefits in her name. Mr. Comer reviewed KM's OK DHS Live Application [Protected Exhibit 1, Page 23] and determined that the address shown on the application did not exist. The address indicated apartment number 29, but the corresponding apartment complex contained no apartment above number 24. Mr. Comer called the telephone number shown on KM's OK DHS Live Application and spoke with the woman who, according to the U.S. Marshall's Office, owned the number. The woman stated that she is employed by the Oklahoma Department of Corrections, indicated that she had not been on food stamps in four or five years, and stated that she does not know KM.

Mr. Comer reviewed the case notes entered into KM's case by the DHS worker who interviewed KM during the application process. He contacted the landlord at the address entered on KM's application after the case worker interviewed KM. The landlord indicated that KM was not the tenant at the address shown in the case notes, but that the tenant at the address had reported receiving "strange" mail from DHS approximately six months earlier. Mr. Comer did not interview the tenant, and did not know the nature of the mail the tenant reportedly received from DHS.

Mr. Comer determined that the EBT card with the number ending in 5522 was issued in KM's name because it corresponded to KM's Oklahoma case number ending in 2475 as shown on Protected Exhibit 1, Page 39. Mr. Comer testified that he determined the KM signature on the

EBT Daily Card Issuance Report of June 18, 2014 [Protected Exhibit 1, Page 39] the day that KM's EBT card was re-issued by DHS worker Brenda Workman, did not match KM's signature from her earlier application for benefits made before KM moved to North Dakota. Comer testified that his investigation did not determine who signed KM's name on the June 18, 2014 EBT Daily Card Issuance Report [Protected Exhibit 1, page 39], and stated that nothing on the report referred to Ms. Jones in any way. Mr. Comer interviewed Brenda Workman, who issued the KM EBT card on June 18, 2014, and Ms. Workman indicated that she did not recall the KM EBT card. Ms. Workman recited DHS policy to Mr. Comer and stated that she would not have deviated from policy. Mr. Comer testified that, at the time the KM EBT replacement card was issued, DHS policy did not require a person picking up an EBT card to present photo identification. During the interview, Ms. Workman told Mr. Comer that she did not recall Ms. Jones being involved in the re-issuance of the KM EBT replacement card.

Mr. Comer reviewed the DHS records of the use of KM's EBT Card 5522. He testified that all transactions made on KM's EBT card are shown on Protected Exhibit 1, Page 33. Although Protected Exhibit 1, Page 33 does not contain KM's case number, Mr. Comer testified that the records shown on the exhibit correspond to KM's case number. Mr. Comer stated on cross-examination that nothing on Protected Exhibit 1, Page 33 makes reference to Ms. Jones. He determined that since KM's replacement card was issued on June 18, 2014, it had been used to access \$2,457.25 in benefits. Mr. Comer contacted the stores at which the report indicated KM's EBT card had been used since her new benefits had been approved. He learned that one store, Sonny's, kept video of register transactions for only 7 days, and that another, Walmart, kept video for 30 to 60 days. Neither Sonny's nor either Walmart at which KM's EBT card had

been used still had video of the transactions because too much time had gone by and the video had been deleted.

Mr. Comer contacted the loss prevention officer for Walmart in Durant and Atoka, Mr. Miller. Mr. Miller informed Comer that KM's EBT card and a debit card had been used in the same transactions, and referred Comer to Walmart investigator, Clint Lee, who investigated and provided Comer with the spreadsheet showing the use of KM's EBT card [Protected Exhibit 1, Pages 40-41]. Mr. Lee also provided Mr. Comer with the actual card numbers corresponding to the Walmart generated numbers shown on Lee's spreadsheet. From this, Mr. Comer determined that the EBT card with WM# 7631 matched the actual EBT card number on Shannon Jones's personal DHS case number. He determined that the debit card with WM# 8295 had been issued by Ameristate Bank to Shannon Jones. He also determined that the EBT card with WM# 7901 matched the actual card number on the EBT card tied to KM's SNAP benefits.

Mr. Comer testified that Ms. Jones was personally a recipient of EBT benefits through DHS in a case properly opened and processed in her own name. From Walmart's transaction report [Protected Exhibit 1, Pages 40-41], Mr. Comer determined that Ms. Jones' personal EBT debit card was used in the same transaction as her personal EBT card on several occasions. He stated that there was no fraud indicated in Ms. Jones' use of her own EBT card.

Mr. Comer also determined, however, that Ms. Jones' personal debit card was used in the same transaction as the KM EBT card at Walmart on three occasions, all as shown on Protected Exhibit 1, Pages 40-41. Mr. Comer testified that he had no personal knowledge of the whereabouts of KM or BA on the dates Ms. Jones' personal debit card and the KM EBT card were used together. He further stated that he had no direct evidence of the identity of the person who tendered the KM EBT card on the occasions, the items purchased with the card, or the

vehicle such persons drove. He could only determine that the KM EBT card was used in conjunction with Ms. Jones' personal debit card. Mr. Comer identified the same transactions in which the KM EBT card and Ms. Jones' personal debit card were jointly used that Clint Lee had identified in his testimony, but additionally testified as to the times of day each transaction occurred, as follows:

<i>Date of Transaction</i>	<i>Time of Transaction</i>	<i>Walmart Store</i>	<i>Total Charge</i>	<i>Amount Charged To KM EBT Card WM# 7901</i>	<i>Amount Charged to Jones Debit Card WM# 8295</i>
7-16-2014	18:24-18:25	Atoka, OK	\$ 73.43	\$ 9.33	\$ 64.10
8-19-2014	11:43	Durant, OK	\$ 35.63	\$ 8.66	\$ 26.97
8-30-2014	21:14-21:15	Durant, OK	\$225.78	\$203.94	\$ 21.84

Mr. Comer testified that the KM EBT card was not issued on the same date that the KM application was approved, May 27, 2014, because KM had an active EBT card left over from her earlier case. A replacement card was issued on June 18, 2014, and the next day, the KM EBT card was used at Walmart in Durant, Oklahoma. The card was used throughout July and August and into September of 2015. Mr. Comer testified that the KM EBT card was not used in KM's state of residence, North Dakota, after it was re-issued on June 18, 2014.

Mr. Comer requested and obtained an audit of KM's SNAP case from the DHS Information Management System ("IMS") in order to determine what DHS employees had accessed KM's case file. Mr. Comer testified that every DHS employee with computer access is issued a unique user number that is password protected. He testified that DHS employees are trained not to share their user number with anyone. As a result of his audit request, Mr. Comer

received a spreadsheet from Jeff Vess in the DHS Office of Inspector General showing each time a DHS employee accessed KM's electronic case file from April 23, 2013, until May 27, 2014 [Protected Exhibit 1, Pages 44-45]. Although KM's case number is not referenced on Protected Exhibit 1, pages 44-45, Mr. Comer testified that he knew the data corresponded to KM's benefit account because the DHS employee who ran the report represented to him that it was a report of KM's account.

Mr. Comer explained that Protected Exhibit 1, Pages 44-45 indicates that the user numbers associated with DHS employees Shannon Jones, Billy Gold, and Justin Ryan accessed KM's electronic case file between April 23, 2013, and May 27, 2014. He determined that Ms. Jones accessed KM's records 13 times on May 22, 2014, 3 times on May 23, 2014, and 39 times on May 27, 2014. He determined that on May 22, 2014, Ms. Jones accessed KM's records for the first time at approximately 1:00 p.m., and for the last time at 4:54 p.m. He stated that KM's online SNAP application was submitted through OK DHS Live at 5:02 p.m. on the same date, just a few minutes after Ms. Jones ended her access to KM's records. Mr. Comer testified that he learned through DHS employee James Conway that KM's online OK DHS Live application was completed in approximately 3 minutes, and that the typical application time is more than 15 minutes. Mr. Comer found it suspicious that Ms. Jones was the only DHS worker who accessed KM's file on May 22, 2014, the same day KM's online benefit application was filed through OK DHS Live. Although he stated that Ms. Jones' review could have been made in the regular course of her business, he believed it was also consistent with her obtaining KM's information in order to personally complete KM's SNAP application through OK DHS Live. Mr. Comer stated that the KM OK DHS Live application indicated it was submitted by the client, not a DHS caseworker. Mr. Comer testified that he determined it was not probable that KM had driven or

flown from North Dakota to Oklahoma to apply for the EBT card issued to her because of her work schedule.

With regard to Protected Exhibit 1, Pages 44-45, Comer testified that, although he does not know all the codes listed on the document, "CM" reflects that the member documents were reviewed in KM's case file, "EA" corresponds to KM's address, phone number, and other identifying information, "BN" corresponds to the benefits KM had received or was receiving, and "EC" represented the food benefits portion of KM's case file. Mr. Comer determined that Billy Gold and Justin Ryan, both DHS employees in the Atoka office where Ms. Jones worked, had also accessed KM's electronic file in the days following submission of the KM online application. He recalled that Mr. Gold said he reviewed KM's records because he was the supervisor on the case, and Mr. Ryan stated he had reviewed the records because he had to take some action, but did not recall what action was necessary.

Mr. Comer testified that OK DHS Live is an online system through which people can apply for benefits electronically. If an application is incomplete or requires some action, it is referred to the county office covering the area in which the applicant resides. Mr. Comer testified that the KM application submitted on OK DHS Live was referred to Atoka County and assigned to Ms. Jones on May 23, 2014. He believed the assignment to Ms. Jones was consistent with the Atoka County office's practice of assigning cases to workers based on the first letter of the applicant's last name. He noted also that Ms. Jones had been KM's caseworker when KM received benefits prior to her move from Oklahoma. He indicated there was nothing suspicious about how KM's application was referred to Ms. Jones.

Mr. Comer interviewed Ms. Jones on February 2, 2015 at her office. He read her Miranda rights. Although Mr. Comer testified that Ms. Jones signed a notice of internal investigation and

Miranda rights, no signed notice was offered as an exhibit in the case. Mr. Comer testified that during the interview, Ms. Jones denied any improper involvement in the case and told Mr. Comer that "I wouldn't do this". Mr. Comer placed some importance on the fact that Ms. Jones did not say "I didn't do this". Mr. Comer did not ask Ms. Jones her whereabouts on the occasions her personal debit card was used jointly with the KM EBT card. Ms. Jones told Mr. Comer that she had occasionally loaned her debit card to a friend, Shannon Bays, but to no other person. Mr. Bays subsequently told Mr. Comer that he had never gotten a debit card from Ms. Jones, but that she had occasionally loaned him money [Protected Exhibit 1, page 47]. Mr. Comer testified that Ms. Jones did not tell him during the interview that she had ever had problems with her personal debit card being "hacked" or that she had ever had to replace her debit card because of fraudulent use. Mr. Comer arrested Ms. Jones for alleged violation of the Oklahoma Computer Crimes Act and transported her to the Atoka County Jail. She was subsequently charged in Atoka County.

After Mr. Comer arrested Ms. Jones, he searched her office hoping to find documentation that Ms. Jones and KM had been in contact. He found none. He confiscated Ms. Jones' day sheets from her itinerary planner. Mr. Comer concluded that Ms. Jones day sheet located at Protected Exhibit 1, Page 78, constituted her entry for May 22, 2015 because, although it is not dated, it was located between the day sheets dated May 21, 2015 and May 23, 2015. Mr. Comer noted a circled entry containing two telephone numbers and the words "Texas DHS" and "no records" on the day sheet he determined corresponded to May 22, 2015. He assumed Ms. Jones circled the entry. Mr. Comer did not call the telephone numbers, but believed the numbers likely corresponded to DHS in Texas and that Ms. Jones may have called Texas on May 22, 2014 to determine whether KM was receiving food benefits in Texas because KM had lived in Texas before she lived in Oklahoma. He believed this to be suspicious, because if Ms. Jones was

calling Texas DHS to confirm whether KM was receiving Texas benefits as a result of KM's application for Oklahoma benefits, the entry would have appeared on Ms. Jones day sheet on May 27, 2014, the day on which Ms. Jones approved the KM application, and not on a date before the KM application was referred to Ms. Jones. KM's name did not appear on the day sheet in question.

The undersigned found Chris Comer to be a credible witness.

Jeff Vess (Appellee Witness):

Jeff Vess is an Information Security and Emergency Management Officer for DHS. Mr. Vess received a request on January 12, 2015, to retrieve data from the DHS mainframe to determine what DHS workers had accessed KM's electronic case file for a period of one year and 6 months. Mr. Vess received the raw data from the administrators of the mainframe, reviewed the security logs, and extracted all DHS users who had accessed the KM records, the actions they took on the computer system, and the date and time of each occurrence. From this data, Mr. Vess prepared a spreadsheet describing DHS user access to KM's electronic case file. The spreadsheet he created was introduced as Protected Exhibit 1, pages 44-45 and also as Protected Exhibit 8. Mr. Vess noted that KM's case number is not indicated on his spreadsheet, but confirmed that the spreadsheet reflects data related to KM's electronic case file. The spreadsheet is not chronological, but is sorted by user number. Each user number corresponds to a particular DHS worker. Mr. Vess testified that the data shown on his spreadsheet does not address whether KM was on the phone with any DHS worker, whether KM applied for benefits

in person, or whether any DHS worker had received a letter or fax from KM or any other person on the dates in question.

The undersigned found Jeff Vess to be a credible witness.

James Conway (Appellee Witness):

James Conway was Deputy Director of Adult and Family Services at DHS at the time of the investigation into the KM EBT card. He resigned on July 6, 2015, and is currently privately employed. At DHS, Mr. Conway was responsible for business process, information systems, and call center operations. Mr. Conway worked with Chris Comer on the investigation into the KM EBT card and Ms. Jones.

Mr. Conway was contacted by Chris Comer's supervisor and asked to interpret data related to the investigation, including the data shown on the Jeff Vess spreadsheet introduced as Protected Exhibit 1, Pages 44-45 and Protected Exhibit 8. Mr. Vess interpreted data from the OK DHS Live system, the PS2 system, and the Family Assistance Client Services (FACS) system.

Mr. Vess explained that the OK DHS Live system is an internet site through which people can apply for benefits electronically. The application can be submitted online by the applicant alone or with the help of a caseworker or any other person, and once submitted, is stored in the PS2 system. Mr. Vess identified the KM benefits application submitted on OK DHS Live as the document entered into evidence as Protected Exhibit 4. He stated that the application was submitted at 5:00:08 p.m. on May 22, 2014.

Mr. Vess testified that if a DHS employee looks at information in the FACS or PS2 (mainframe) system, she must first enter her unique user number and the case number of the applicant or benefits recipient she is working on. He testified that the user identification number ending in the numbers 61 on Protected Exhibit 8 belongs to Ms. Jones. The user identification

number ending in the numbers 42 shown on Protected Exhibit 8 belongs to Billy Gold. The user identification number ending in the numbers 03 belongs to Justin Ryan. Once a DHS worker logs into a system, the system tracks the worker's keystrokes. Evaluation of the keystrokes made by a worker can determine what the worker actually did in the system.

Mr. Vess used his administrator access to collect the data from the PS2 and FACS systems. From this, he determined that on May 22, 2014, Ms. Jones' user number was used to access KM's information in the following transactions: (1) CM regarding the members of KM's household, their birthdates and benefits; (2) EA regarding KM's address and phone number; (3) BN for past and current benefits received by KM; (4) G3 regarding the existence of error messages on KM's case; (5) CFRRPA regarding any child support information related to KM; and (6) GABCDRAW regarding any KM intake application opened in the FACS system. Mr. Vess found nothing about Ms. Jones accessing this data as suspicious. He found it fairly standard.

Mr. Vess testified that after KM's application was submitted on May 22, 2013, Ms. Jones, Mr. Gold, and Mr. Ryan all accessed KM's electronic data. Mr. Gold accessed the case on May 23, 2014, and his keystrokes indicate that he did so to assign review of the KM application to the appropriate caseworker which was, in this case, Ms. Jones. Ms. Jones also accessed the case on May 23, 2014, and again on May 27, 2014, and her keystrokes indicate that she reviewed the KM application and entered it for approval. Mr. Ryan entered the case on May 27, 2014, and his keystrokes indicate that he made the final entry in the case by typing the letter "P" for pass, indicating that the application was approved. Mr. Vess testified that the entries made after submission of the KM application indicate a standard approval process conducted in a normal time frame. Nothing he reviewed regarding Ms. Jones' work in evaluating and approving the KM

application appeared improper. Mr. Vess testified that, if Ms. Jones was in fact the person who filled out the KM OK DHS Live application, she might have anticipated that review of the application would be assigned to her because some counties assign reviews to caseworkers who previously handled an applicant's case and Ms. Jones previously handled KM's case.

Mr. Vess identified Exhibit 21 as an email he sent to Chris Comer regarding the KM EBT investigation. He testified that SNAP benefits, once approved, are routinely certified for twelve months, but are reviewed every six months. In this case, KM had received benefits from DHS in the past, but she did not submit an application to renew the benefits, and so the system automatically closed her case. When the KM application was submitted through DHS Live on May 22, 2014, the system classified the application as a new case because her prior case had been closed for more than six months.

Mr. Vess testified that the "CreatedWhen" entry on Exhibit 21 indicates the time at which KM's OK DHS Live application was started. The "TouchedWhen" entry on Exhibit 21 indicates the time at which KM's OK DHS Live application was completed and submitted. In this case, KM's online application was started on May 22, 2014, at 4:59:55 p.m., and was completed and submitted two minutes and thirteen seconds later, at 5:02:08 p.m. Mr. Vess testified that the OK DHS Live application submitted in KM's case on May 22, 2014, was the first time anyone had used OK DHS Live to make application in KM's case. He stated that he determined the average time taken to complete OK DHS Live applications during the month of May, 2014, was thirteen minutes. Mr. Vess testified that when an OK DHS Live application is instigated for a client who is already in the DHS system, the computer automatically inserts some data in the application. The application involves twenty-three screens, each screen requiring some action or selection on the part of the person completing the application.

Mr. Vess testified that he had no evidence that Ms. Jones filled out the KM OK DHS Live application. However, Mr. Vess found it unusual that Ms. Jones' user identification number was used to run the PS2 transactions related to KM and open KM's file in the FACS system *immediately prior* to the KM OK DHS Live application being submitted online. In addition, Mr. Vess testified that a caseworker uses the FACS system to take notes during a telephone interview with a client. The FACS system has no notes to reflect that any conversation between Ms. Jones and KM or any other person related to the KM application occurred on May 22, 2014.

Mr. Vess testified that the amount a client receives in SNAP benefits is based on her income, the number of people in her household, and other factors. He stated that KM was approved to receive \$750.00 per month in SNAP benefits. She received a prorated amount for the month of May, 2014, in the amount of \$225.00, and full benefits for the months of June through September, 2015. The total benefit credited to KM's SNAP account was \$3,225.00. Protected Exhibit 4, Page 12, indicates that the total amount spent from KM's SNAP benefits, through the use of the KM EBT card, was \$2,457.25. Mr. Vess testified that he had no evidence that Ms. Jones personally made the \$2,457.25 in charges on KM's EBT card.

The undersigned found James Conway to be a credible witness.

David Jones (Appellee Witness):

David Jones is married to Appellant, Shannon Jones. During 2014, Mr. Jones underwent at least three surgeries. He testified that the first surgery was for a hernia repair, the second for a spider bite or kidney stones, and the third for hernia repair. He subsequently testified that he had two hernia surgeries and two surgeries for kidney stones. All of the surgeries occurred close together, and he missed some work as a result. The Joneses had a son at home and two foster children through DHS.

Mr. Jones was aware that Ms. Jones had been approved for and received SNAP benefits in her name during that time. The application was handled through the Durant DHS office because Ms. Jones worked in the Atoka DHS office.

Mr. Jones testified that he did not have access to Ms. Jones' personal debit card. He stated that her card had "been hacked several times"; that someone had gotten into Ms. Jones' bank account and taken money, and had never been caught. Because Ms. Jones' card had been compromised, she got a different card. That card was "also hacked". She got a replacement for that card as well. Some of the problem occurred with Ms. Jones' account at Ameristate Bank in Atoka. Mr. Jones identified Exhibit 25 as records of Ms. Jones' account at Ameristate Bank and testified that the records show how Ms. Jones' account was compromised. Mr. Jones did not obtain the Ameristate Bank letter entered as Exhibit 25, Page 1. Mr. Jones stated that he had no knowledge of whether Ms. Jones' debit card ending in the numbers 2338, as identified in Exhibit 25, is the card used in conjunction with the KM EBT card, or whether Ms. Jones continued using the card ending in 2338 for several months after the subject transactions. Mr. Jones stated that he has never seen Exhibit 25, Pages 3-4 and has no idea what the document is.

Mr. Jones testified that he was unaware of any problem his wife had at work, or the investigation into the KM EBT card, prior to Ms. Jones' arrest.

Lynn Childers (Appellee Witness):

Lynn Childers has been Regional Deputy Director for Region Four for Adult and Family Services at DHS for four years. She supervises twenty-two counties, including Atoka County, where Ms. Jones was employed.

Ms. Childers identified Exhibit 1 as the Notice of Proposed Formal Disciplinary Action issued to Ms. Jones on February 18, 2015. Ms. Childers signed both the notice and the Certificate

of Prior Disciplinary Action [Exhibit 1, Page 18]. She assisted in drafting the notice, and relied on information that came to her attention from conversations she had with the DHS Atoka County Director, Mr. Province, and Administrative Field Agent Ms. Stropp during the preliminary investigation. Based on the information received, Ms. Childers made the recommendation that Ms. Jones be terminated.

Ms. Childers identified Exhibit 2 as the supporting documents referenced in the Notice of Proposed Formal Disciplinary Action, and Exhibit 3 as additional documents supporting the proposed discipline. She testified that all documents contained in Exhibits 2 and 3 were provided to Ms. Jones.

Ms. Childers testified that a pretermination hearing was held. After the pretermination hearing, Ms. Childers reviewed the decision of the pretermination hearing officer. She then signed and issued the Notice of Final Formal Disciplinary Action entered into evidence as Exhibit 4. She identified Exhibit 5 as the letter she received from Ms. Jones' counsel in response to the Notice of Proposed Disciplinary Action. She identified Exhibits 6-14 as the documents that were attached to the Notice of Final Formal Disciplinary Action and stated that they were sent to Ms. Jones with the final notice.

Ms. Childers identified Exhibit 18 as the last Performance Management Process ("PMP") Ms. Jones received before her discharge. She noted that the PMP indicated that Ms. Jones performance met or exceeded standards, and stated that she has confidence that the two DHS employees who conducted the PMP rated Ms. Jones correctly based on the way she worked her caseload. She testified that she was aware that Ms. Jones had been employed by DHS for thirteen or fourteen years and had received no prior formal or informal disciplinary action. Ms. Childers testified, though, that progressive discipline steps can be skipped, depending on the severity of

an employee's action. Ms. Childers believed Ms. Jones' actions were severe enough to support termination.

Ms. Childers believed termination was the appropriate discipline in Ms. Jones' case because she determined that Ms. Jones had obtained improper access to confidential client information, falsified documents, and used the system to obtain fraudulent benefits in KM's name. On cross-examination, Ms. Childers stated that she believes the allegations against Ms. Jones are true. She did not participate in the investigation or obtain any of the information related to the case on her own. She did not personally interview KM, KM's former boyfriend, BA, Ms. Jones or Ms. Jones' husband. Instead, Ms. Childers relied on her county director and the DHS investigators to do so, believing them to be fully capable of the task. She was updated on the matter throughout the investigation by the DHS Atoka County Director, Mr. Province, and Administrative Field Agent Ms. Stropp. By the time she decided to issue the Notice of Proposed Formal Disciplinary Action, she had seen the information gathered in the case and reached the conclusion that termination was the appropriate discipline. She did not see Mr. Comer's investigative report prior to the pretermination hearing. She spoke to Mr. Comer, for approximately five minutes while they were waiting for the pretermination hearing to begin. Going into the pretermination hearing, based on the facts that had been reported to her by Mr. Province and Ms. Stropp, she believed Ms. Jones should be considered for termination.

Ms. Childers testified that she became aware that KM had received food benefits in the past in Texas, Oklahoma, and North Dakota. She stated that her Oklahoma DHS number would follow her in the Oklahoma system under most scenarios for life, but that it could change depending on a variety of circumstances. Any benefits in which KM was the payee would be made under KM's own case number.

Ms. Childers was also aware that Ms. Jones had been a recipient of SNAP benefits through DHS for a short period of time. She was not aware of anything unlawful about Ms. Jones receiving benefits. She stated that Ms. Jones' own benefits case number would follow her for life as well. She testified that she believes every EBT card issued for SNAP benefits requires the use of a personal identification number (PIN) unique to the client, but stated that she is far removed from that process now. She testified that all DHS employees have unique computer identification numbers.

The undersigned found Lynn Childers to be a credible witness.

Brenda Workman (Appellant Witness):

Brenda Workman testified by telephone. Ms. Workman retired from DHS on April 1, 2015, but at the time the KM EBT card was issued on June 18, 2014, Ms. Workman was employed in the DHS Atoka office as a Clerk III. She was a DHS employee for thirty-five years. For the last five or six years of Ms. Workman's employment, her duties included preparing new and replacement EBT cards. She testified that on some days she would make 2-3 EBT cards, and on some days would make a dozen or so.

Ms. Workman testified that when a client came into the Atoka DHS office, the receptionist would write her name on the Receptionist Day Sheet. The receptionist would then normally either refer the client to her existing caseworker or assign a caseworker to open a new case for the client. She testified that if a client picked up an EBT card from her office, the client should have first signed in with the receptionist, but that this did not always happen. She testified that KM's name may not appear on the Receptionist Day Sheet because, at times, the receptionist was too busy to write down a client's name.

Ms. Workman testified that DHS policy at the time the KM EBT card was issued required the benefit recipient to pick up the card personally. Policy did not require the recipient to provide photo identification. She stated that on most occasions, a DHS caseworker would bring the information necessary to make a card to her window and she would make the card. The recipient would typically bring a note with her case number to her if she had already seen a caseworker. When the EBT card was given to the recipient, the recipient would sign her name on the Daily Card Issuance Report.

Ms. Workman testified that she does not specifically recall June 18, 2014, and stated that it was “just another day”. Although she does not specifically recall issuing the KM EBT card, the DHS Daily Card Issuance Report [Protected Exhibit 1, Page 39] bears her initials, “BW” as the person who issued the card. Ms. Workman stated that the supervisor signature on the form, in this case bearing the signature of supervisor Carol Sanders, was typically provided at the end of each day. Ms. Workman testified that KM’s signature appears on the Daily Card Issuance Report. She testified that she does not know KM, has never heard KM’s name, and doesn’t recall whether she ever made an EBT card for KM. When asked if she would be surprised to hear that the investigator testified that KM’s signature on the Daily Card Issuance Report appeared different from KM’s other signatures in DHS records, Ms. Workman responded, “No idea, but I’ve never given [an EBT] card to a worker”.

Ms. Workman testified that giving an issued EBT card to a caseworker would violate DHS policy. She testified that she had never given an EBT card to a caseworker. When asked if she remembered whether Ms. Jones had anything to do with the issuance of KM’s EBT card, she answered firmly that “she did not”. On cross-examination, she clarified the statement by saying that she did not recall anything out of the ordinary in the way the KM EBT card was issued.

The undersigned did not find Brenda Workman to be a credible witness.

Gaylin Childers (Appellant Witness):

Gaylin Childers is a Family Support Supervisor in the DHS Cole County office. He also works part time in the Atoka office. Mr. Childers began supervisory duties for DHS in 1996, and retired in July of 2011. He recalls that he supervised Ms. Jones for perhaps two years or longer, but does not recall during what time frame. Mr. Childers' duties included rating Ms. Jones on PMPs. He was fairly sure that Ms. Jones met standards on appropriate behavior. He is not familiar with Ms. Jones' reputation in the community, but is not aware of any instance in which Ms. Jones failed to tell him the truth or in which he relied on Ms. Jones' word to his detriment. He testified that he would only have made comments on Ms. Jones' PMP that he believed were true.

The undersigned found Gaylin Childers to be a credible witness.

Leah Nabors (Appellant Witness):

Leah Nabors works as a Social Service Specialist II in the Bryan County DHS office in Durant, Oklahoma. She testified that Ms. Jones applied for SNAP benefits in 2014 through her office because Ms. Jones was employed in the Atoka office. She testified that it is not unprecedented for a DHS worker to apply for benefits, that such applications are normally handled in an adjoining county, that the application is subject to the same evaluation and process as applications made by the general public.

Ms. Nabors knew Ms. Jones before Ms. Jones submitted an application for SNAP benefits. She recalled that the application was made because Ms. Jones' husband had been off of work due to surgery and Ms. Jones was the only source of the family's income. Ms. Jones qualified for SNAP benefits, and Ms. Nabors recommended approval of the application. The

application was approved by Ms. Nabors' supervisor. She testified that Ms. Jones was not issued an EBT card out of the Durant office, but that she assumes an EBT card was issued to Ms. Jones. Ms. Nabors testified that when a person receives a DHS case number, the number stays with the person for life.

The undersigned found Leah Nabors to be a credible witness.

Gaylene Miller (Appellant Witness):

Gaylene Miller works as a clerk in the Atoka DHS office. Her duties include making EBT reports, helping in the front, and making EBT cards. She has been making EBT cards for approximately three years. She testified that Brenda Workman was "strictly the front person".

Ms. Miller identified Protected Exhibit 1, Page 39, as the Daily EBT Card Issuance Report that was used to record the issuance of EBT cards on June 18, 2014. From the report, she could determine that:

- On June 18, 2014, an EBT card was issued to KM;
- That KM's case number and card number are identified on the report;
- That the issued card was a replacement for a lost or stolen card;
- That Brenda Workman initialed the form indicating Ms. Workman made the card;
- That the signature of KM appears on the form, but that she does not know KM and has no idea if the signature on the form is actually KM's signature; and
- That supervisor, Carol Sanders, signed the form.

Ms. Miller stated that she saw nothing unusual in the transaction shown on the report entered into evidence as Protected Exhibit 1, Page 39.

Ms. Miller testified that at the time the KM EBT card was issued, DHS policy did not require an applicant to present photo identification to obtain a card. Rather, the worker would ask

the applicant's name and social security number, and look up the applicant on IMS by birthdate to find their case number and make a card. She stated that it would have been possible for a person other than KM to pick up her card if the person had KM's identifying information. Ms. Miller testified that she understands DHS policy now requires presentation of photo identification when an EBT card is picked up, and assumes the policy has been implemented to prevent a person from picking up another person's card. She has never known DHS to have problems with EBT cards being picked up by persons other than the proper recipient. When asked on cross-examination if she is aware that the SNAP program prohibits DHS from requiring photo identification for EBT card delivery, Ms. Miller stated that she had checked the EBT book and believes that it does not say photo identification is required.

Ms. Miller testified that she is aware that in the past EBT cards have been given to DHS caseworkers for delivery to a client, but does not believe that has been done in years. She does not know whether Brenda Workman ever gave a client's EBT card to a DHS caseworker. Ms. Miller testified that nothing on the Daily Card Issuance Report of June 18, 2014 [Protected Exhibit 1, Page 39] indicates the KM EBT card was given to a DHS employee.

The undersigned found Gaylene Miller to be a credible witness.

Billy Gold (Appellant Witness):

Billy Gold works as a Social Services Specialist II in the Atoka office of DHS. He has been a supervisor for five years. Mr. Gold worked with Ms. Jones, but did not interact with her outside the office. He supervised Ms. Jones off and on through the years while the office was short of supervisors. He doesn't recall ever doing a PMP on Ms. Jones, and has no recollection of her work performance other than that the two of them had multiple conversations about Ms. Jones needing to get to work on time. As far as Mr. Gold knows, Ms. Jones performed her duties.

Mr. Gold testified that OK DHS Live is an internet based system designed to allow clients to submit applications for benefits on their own. Although a social worker may assist a client in submitting an application through OK DHS Live, generally applicants submit the applications on their own. Mr. Jones has never submitted an application on behalf of a client through OK DHS Live. He explained that when a complete application is submitted through OK DHS Live, it is processed at the DHS office in Oklahoma City. If a submitted application is incomplete, however, it is referred for further work to the DHS office that covers the county in which the applicant resides. If an online application is referred to a county office, the county office assigns the application to a particular caseworker. Mr. Gold testified that in Atoka, online applications are referred to the caseworker who covers the letter of the alphabet that is the first letter of the applicant's last name.

Mr. Gold testified that, because of this system, if Ms. Jones had submitted the KM application through OK DHS Live, she would have been able to anticipate that the application would be referred back to her for processing and consideration for approval. He testified that the KM EBT application was submitted through OK DHS Live at just after 5:00 p.m. on May 22, 2014. He stated that Ms. Jones having reviewed KM's computer records *before* KM's application was submitted online was out of the ordinary; that there would be no reason for a caseworker to review the client's computer records before an online application was submitted.

Mr. Gold testified that he deals with SNAP benefits in his work. He stated that EBT cards are made in the office. He stated that benefit recipients are supposed to pick up their EBT cards personally. He is unaware of cases in which DHS caseworkers might pick up an EBT card for a client, and has never seen it happen. He has no evidence that Ms. Jones picked up the KM EBT

card. Mr. Gold knows both Ms. Workman and Ms. Miller, but does not know whether either of them was involved in issuing the KM EBT card.

Mr. Gold reviewed the spreadsheet summarizing DHS employees' access to KM's computer records that was prepared by Mr. Vess [Protected Exhibit 1, Pages 44-45]. From this, Mr. Gold testified that he accessed the KM records on May 23, 2015, the day after the KM application was submitted on DHS Live. From the transaction codes, Mr. Gold determined that the purpose of his access was to look at the KM application after it had been referred back to the Atoka office and to assign review of the application to Ms. Jones. He testified that this is a normal process and that it normally takes him 1-2 minutes to complete the task, which is the time it took in this instance. Mr. Gold testified that there would be no way from review of an application submitted through OK DHS Live for him to know if the application had been submitted by a client or a DHS worker.

The undersigned found Billy Gold to be a credible witness.

Justin Ryan (Appellant Witness):

Justin Ryan is a Child Protective Service Worker for DHS in Atoka County. At the time the KM EBT card was issued, he was a Social Services Specialist. He has worked for DHS for eleven years. Mr. Ryan never supervised Ms. Jones, and believes the only problem with her work was that she had difficulty arriving at work on time. Although Mr. Ryan was not a supervisor in May of 2014, his job included evaluating and signing off on benefit applications when no supervisor was available. He did not specifically recall approving the KM benefits application, but had no reason to doubt an email indicating that he did [Exhibit 21]. He would normally have reviewed an application only upon the request of a caseworker, and assumes Ms. Jones requested his review of the KM application.

Mr. Ryan is familiar with the OK DHS Live application process. He testified that when a client applies for benefits through the OK DHS Live system, if the application is incomplete, it is assigned to the county level so that a county level caseworker can gather information to process the application.

Mr. Ryan reviewed the spreadsheet summarizing DHS employees' access to KM's computer records that was prepared by Mr. Vess [Protected Exhibit 1, Pages 44-45]. Although he has no specific memory of the day the KM application was approved, May 27, 2014, he identified his unique computer identification number on the Vess spreadsheet and stated that it appeared he gave final approval of the application. Mr. Ryan found two things unusual about his approval of the KM application as reflected on the Vess spreadsheet. First, he approved the application within a minute, and normally the process takes longer. Second, it appears from the Vess spreadsheet that he looked at fewer screens than normal. For example, he would normally review an applicant's GC screen to confirm benefits before approving the application. He did not do so in this case.

Mr. Ryan testified that when he reviews a benefits application, there is no way to tell who entered the information on the application or whether information was entered in a case without a client's knowledge. He would be unable from a review of an application to determine whether any information on the application was fraudulent or incorrect. His job in reviewing an application was to make sure all blanks were filled in. Mr. Ryan stated that he knows of no evidence to indicate Ms. Jones prepared the KM benefits application.

The undersigned found Justin Ryan to be a credible witness.

Shannon Jones (Appellant Witness):

Shannon Jones, the Appellant in this case, testified that she is under criminal indictment in Atoka County, Oklahoma. She stated that she understands she does not have to testify in this matter and that anything she says can be used against her in the pending criminal case. She stated that she has been informed by her counsel of the potential consequences of testifying, and that she is electing to testify.

Shannon Jones worked as a Social Services Specialist II in the Atoka County office of DHS. At the time of her termination, she had been employed by DHS for thirteen years. Ms. Jones testified that her most recent PMP rated her performance as “exceeds standards”. On prior PMPs she usually received “meets standards” or “exceeds standards”. She stated that she has a clean employment record with no prior formal or informal discipline. Ms. Jones testified that she loved her job because it allowed her to help people, provided a good working environment, and she loved the people with whom she worked.

Ms. Jones stated that she does not know KM. She only met KM when KM came into the Atoka office to apply for benefits in 2012 or 2013. She knew nothing else about KM, had no connection to KM, and was unaware that KM had allegedly moved to North Dakota.

Ms. Jones testified that the OK DHS Live system allows clients to apply for benefits online. She is familiar with the system and stated that caseworkers are instructed to tell clients who cannot come into the office to use the online system. She stated that some clients don’t have computers, but that an agency in Atoka, INCA, offers help to people without computers or computer skills submit online applications. Ms. Jones testified that she did not prepare the KM application, or any part of the application, that was submitted online through OK DHS Live on May 22, 2014, a few minutes after Ms. Jones’ last access to KM’s computer records. As far as Ms. Jones knows, KM completed the application. Ms. Jones is unaware of whether KM had

assistance in completing the application from INCA or from any other agency or person. Ms. Jones testified on cross-examination that she did not assist anyone in submitting the KM online application, and that she never met anyone during the application process – everything was done online or by phone. Ms. Jones testified that she had personally used the OK DHS Live system to submit her personal application for benefits in June or July of 2014. She has also helped clients in the past fill out the OK DHS Live application, but on such occasions is required to indicate on the application that she acted as proxy for the applicant. She testified that because the KM application does not indicate it was completed by Ms. Jones as KM's proxy, she knows she did not complete the application. Ms. Jones stated that she does not know whether she provided KM's case information to a third party for the purpose of assisting KM apply, but went on to state that someone called her on the KM file on the day the application was filed, May 22, 2014, but that she did not give out KM's information to anyone.

Ms. Jones identified Exhibit 20 as the case notes from the KM file. She stated that case notes are kept by caseworkers to document work done related to a client. The case notes are stored in the DHS FACS database. She did not print out the KM case notes that comprise Exhibit 20, and assumes that someone from DHS would have provided them. She reviewed the case notes and stated that they were all notes she typed into the system, except that the handwriting on the December 6, 2012 entry was added by someone else.

Ms. Jones identified her unique DHS computer user identification number and recited all of its digits. Ms. Jones' computer identification number ends in the numbers 61. She testified that when she was hired at DHS, she was told that DHS could track everything she does on the computer. She testified that she was aware that she was entitled to access client information on DHS computerized records only when she had a legitimate business purpose to do so.

Ms. Jones does not dispute that she accessed KM's computer records on May 22, 2014. She testified on direct examination that for her to have looked KM's records up on that date, someone would have had to call. On cross-examination, she stated affirmatively that May 22, 2014, was the first date she talked to KM during 2014 – that KM called her on that date, but she did not know what time of day the call occurred. Ms. Jones stated that nothing was unusual about receiving a call from a client or about her access to KM's records on May 22, 2014. She testified that she would have had to look at KM's computer file to see what had happened in the case in the past. Although she did not recognize all of the codes on Mr. Vess' spreadsheet of computer activity [Protected Exhibit 1, Pages 44-45], she did not see anything unusual about the record of her computer use in the KM matter on May 22, 2014.

Ms. Jones testified that she would normally make note of a call from a client on her Day Sheet, but she made no such entry documenting the call she received from KM on May 22, 2014. She testified that the bottom entry on her May 22, 2014 Day Sheet [Protected Exhibit 1, Pages 78-79] indicates that she called Texas DHS to verify that a client did not have an open case in Texas, and that this was part of her normal job duties. She does not know whether she made the call regarding KM because the entry does not refer to KM, and stated that she could have made the call about another client. On cross-examination, Ms. Jones denied that it is possible that she wrote the Texas number down and circled it to confirm it was safe to use KM's case to obtain benefits for herself because she had confirmed KM was not currently receiving benefits in Texas.

Ms. Jones testified that she has no doubt she took action regarding the KM application on May 23, 2014. She stated that KM's application would have been assigned to her because she was assigned all clients with last names beginning with the letter "m". She testified that on May 23, 2014, she would have been reviewing the KM computer records for the purpose of

processing the KM application that had been submitted through OK DHS Live. Mr. Gold would have been reviewing the records for the purpose of assigning the case to Ms. Jones. She stated that her Day Sheet for May 23, 2014 does not reflect any matter related to KM, and that she tries to write down everyone she sees or talks to, but that doesn't always happen if she is interrupted or gets busy.

Ms. Jones testified that her access to KM's computer records on May 27, 2014, would have been for the purpose of attempting to certify the case. She would have been gathering and checking information provided on the KM OK DHS Live application to make sure all of KM's children were named, and determine whether KM had past or current benefits. She testified that the screens shown on the Vess spreadsheet summarizing computer activity on the KM file for May 27, 2014, are the screens she would normally review during the certification process. Ms. Jones explained that because the KM application indicated there was no income in KM's household, the application was treated as an emergency that must be processed in seven days. Ms. Jones stated that she knew KM's address on the application was incorrect because she knew the manager at the apartment complex listed, and knew that the apartment numbers at the complex did not go as high as the apartment number listed on the KM application. Ms. Jones stated that because she knew the address was incorrect, she called KM by phone on May 27, 2014, or on another date during the processing of KM's application in May of 2014. Ms. Jones testified that KM advised her that she was living somewhere in Stringtown, Oklahoma, and provided an address. Ms. Jones then corrected KM's address to 207 Lakeshore Drive, Stringtown, Oklahoma. Ms. Jones testified that she has no idea why KM told her she was living in Stringtown, Oklahoma, when KM was actually living in North Dakota, but noted that applicants for DHS benefits don't always tell the truth. She stated that she does not have time to

independently drive around and confirm an address provided by an applicant. She acts on the information the applicant provides. Ms. Jones agreed that her case notes do not indicate she made any call to KM regarding the address issue. Ms. Jones agreed that her Day Sheet for May 27, 2014, does not indicate that she made any call to Texas DHS to determine whether KM was receiving benefits in Texas, which was KM's former state of residence, but that she may have made such a call on that day and that "we don't always write that down".

Ms. Jones recommended approval of SNAP benefits to KM on May 27, 2014. She then left the application on Mr. Ryan's desk for review and final consideration. She stated there was nothing unusual about Mr. Ryan reviewing the KM computer records as part of the approval process. Ms. Jones testified that Mr. Ryan was satisfied with her recommendation and the work she had done, and that Mr. Ryan had certified the KM case for SNAP benefits on the same day. Ms. Jones testified that at the time she processed the KM application, she saw nothing unusual about the case, and she was not worried about it in any way.

Ms. Jones testified that no card was issued on the day KM's benefits were approved because, as a former DHS benefit recipient, KM already had an EBT card. She stated that KM did not ask her about a replacement card when new benefits were approved in May of 2014. Ms. Jones testified that she has seen the records regarding the issuance of the KM EBT card on June 18, 2014. She stated that she does not know why KM waited three weeks from approval of her benefits to get the EBT card. Ms. Jones testified that she was not involved in issuance of the KM EBT card, and did not participate in the case on June 18, 2014. Ms. Jones has seen people pick up EBT cards by giving their names and social security numbers to the Atoka office receptionist. Ms. Jones testified on direct examination that she believes that KM personally picked up the KM EBT card, but also stated that she did not know whether KM was in the Atoka office on the day

the card was issued. On cross-examination, however, Ms. Jones testified that she has no idea who picked up the KM EBT card. Ms. Jones stated that neither she nor her husband ever had possession of the KM EBT card.

Ms. Jones does not dispute that her personal debit card was used in the same transactions as the KM EBT card, but she testified that she never used the KM card. She also testified that every EBT card requires the use of a personal identification number (“PIN”) that the recipient sets by calling a toll-free number after obtaining the card. Ms. Jones stated that she does not know the PIN for the KM EBT card.

Ms. Jones testified that she kept a personal calendar on her desk at work that detailed where she was during the times her personal debt card was used in conjunction with the KM EBT card. From that calendar, Ms. Jones testified as follows:

- On July 16, 2014, when Ms. Jones’ debit card and the KM EBT card were jointly used at Walmart in Atoka, Oklahoma at approximately 6:25 p.m., Ms. Jones testified that she was at Hillcrest Baptist Church in Atoka. She testified that her church service begins at 6:00 p.m. on Wednesday nights, and that she would have arrived a little early, around 5:50, and usually left either when the service ended between 7:00 and 7:15 or, in the event a reception followed the service, around 8:00 p.m. Ms. Jones stated that she would have driven her elderly mother and two foster kids to church with her. She testified that she has attended regularly all of her life. Ms. Jones stated that she could not have used her debit card from church. Ms. Jones knows of no document other than her calendar that would support her presence at church at the relevant time.

- On August 19, 2014, when Ms. Jones' debit card was used in the same transaction as the KM EBT card at Walmart in Durant at approximately 11:43 a.m., Ms. Jones' calendar indicated she could not have been there. Ms. Jones testified that her two foster children had doctor appointments in Durant that morning, and that her husband had surgery in Atoka. She rescheduled the kids' doctor appointments to earlier in the morning so that she could also attend her husband's surgical appointment at 11:00 a.m. She stated that she was at doctor appointments with the children in Durant until approximately 9:45 or 10:00 a.m. She then got food for the kids and checked them into daycare in Atoka at noon. She then arrived at the Atoka hospital to be with her husband at 12:10 p.m., and found that her husband was just being prepared for surgery. She was at the Atoka hospital until between 4:00 and 5:00, and picked up her foster kids from daycare by 5:30 p.m. She stated that she could not have been at the Durant Walmart at 11:45 a.m., because Durant is approximately 30 minutes from Atoka. Ms. Jones testified that she has looked at her records to confirm these times. Ms. Jones testified that she had no document other than her calendar to support her presence at the doctor's office or hospital.
- On August 30, 2014, when Ms. Jones debit card was used jointly with the KM EBT card at Walmart in Durant, Oklahoma at approximately 9:15 p.m., Ms. Jones was at home. She testified that on that Saturday, she and her husband went to Walmart in Durant because they had vouchers to get their foster kids clothes and school supplies, and the vouchers were payable to the Durant Walmart. Ms. Jones referred to her bank statements [Exhibit 19], and testified that while at the Durant Walmart she charged \$4.98 to her personal debit card at 6:56 p.m., and \$4.35 to her personal debit card at

7:02 p.m. She then went to Braums in Durant where she made a charge on her personal debit card at 7:31 p.m. for food, and 8:04 p.m. for ice cream. She and her husband then took their foster children home and went to bed.

Ms. Jones' personal calendar was not presented as an exhibit at the hearing, but was provided to Appellee's counsel for review. Ms. Jones testified that the entries on the calendar are in her handwriting, that she kept the calendar at work, and that she retrieved the calendar from her desk after she was terminated and allowed to get her personal items from her work area.

Ms. Jones believes her personal debit card was compromised, and testified that she had encountered problems with her bank account and/or debit card being "hacked" in the past. Ms. Jones testified that on June 2, 2014, someone attempted to fraudulently use her personal Ameristate Bank debit card in Colorado, but that her bank cancelled the card and provided her with a replacement card. She never learned who had attempted to use her card. In addition, sometime in 2013, someone accessed her checking account on the day her paycheck was automatically deposited and removed her entire check, leaving a balance of \$0.03 in her account. Ms. Jones went to the bank to report the matter, the bank investigated the issue and replaced the money. She has no idea who created this problem with her account.

On cross-examination, Ms. Jones stated that she had never personally engaged in activity with her debit card that made her need to cancel the card and obtain a replacement. She stated that the replacement debit card issued to her by Ameristate Bank around June 2, 2014, ended in the numbers 2338, that she received the card, and that it was the card she still used when the joint charges with the KM EBT card occurred in 2014. She continued to use the card until March 9, 2015. She had not noticed any fraudulent activity on her card between the time the replacement card was issued around June 2, 2014, and March 9, 2015, but stated that "she didn't keep

everything written down". On March 9, 2015, she had her debit card ending in 2338 cancelled, and received a replacement card, which she continues to use today. Ms. Jones testified that when Ameristate Bank wrote the September 21, 2015 letter [Exhibit 25] documenting that her debit card had been cancelled twice due to fraudulent activity, the bank was relying on her report that the activity had occurred in June, 2014. She stated that the bank tried to research the matter, but that "their records didn't go back that far". Ms. Jones testified that she never made anyone at DHS aware of past problems with her personal debit card, because no one ever asked.

Ms. Jones identified Exhibit 19 as copies of her bank statements on her checking account at Ameristate Bank. She testified that she highlighted the charges on her bank statements that she states she did not make. She noted that the September 2, 2015 entry on her bank statement that shows a \$21.84 charge at the Durant Walmart on August 30, 2015, at the time of 19:15 [Exhibit 19, Page 8] corresponds in amount but not in time to the Durant Walmart entry shown on Walmart's records [Protected Exhibit 1, Pages 40-41]. The times are exactly two hours off. In addition, Ms. Jones stated that she did not make the August 30, 2015 \$21.84 Walmart charge. On cross-examination, Ms. Jones also testified that she did not make the charges shown on her bank statement to the Atoka Walmart on July 16, 2015 in the amount of \$64.10, or to the Durant Walmart on August 19, 2015 in the amount of \$26.97. She stated that she typically receives her bank statements by email around the 6th day of each month, but that it is not her practice to review the statements line by line. She testified that she started looking at the line item entries on her bank statements, and questioning the charges she marked on her bank statements, after her arrest in 2015, and that she then went to the bank to have her debit card cancelled and a replacement issued.

Ms. Jones testified that using her debit card usually requires use of a PIN, but did not agree on cross-examination that whoever used her debit card at Walmart would have to have known and used her PIN as well. She stated she knew this because she had once personally made a \$7.00 charge at Walmart on her debit card and no PIN entry was required; that Walmart will automatically approve debit card charges under a certain dollar amount without use of a PIN. Someone at Walmart once told her that if a charge is under \$50.00, no PIN is required. Ms. Jones stated that she only had one debit card issued on her account. She stated that she made all debit card charges shown on her bank statements [Exhibit 19] except those charges that are highlighted.

On cross-examination, Ms. Jones agreed that the KM EBT card was used for the first time on June 19, 2014, the day after it was issued by the Atoka DHS office. She agreed that it was last used on September 6, 2014, shortly before Ms. Jones first learned there was a question about the KM benefits case. Ms. Jones also agreed that if KM had possession of the KM EBT card, she would have had to drive from North Dakota to Oklahoma on the three days the EBT card was used at Walmart in Durant or Atoka. Appellee's counsel then referred Ms. Jones to KM's work hours shown on Protected Exhibit 1, Pages 21-22, and asked if KM was working the hours indicated on the exhibit at Walmart in North Dakota, whether it is possible for KM to also be driving to Oklahoma to make purchases on a limited income. Ms. Jones responded, "I wouldn't think so, but I don't know what her total income is."

Ms. Jones also testified on cross-examination, that she does not know why KM would have called Oklahoma on September 16, 2014 to inquire about Oklahoma benefits [Protected Exhibit 1, Page 5], if she knew she already had a case. She also stated that KM never told her during her first Oklahoma benefits case, that KM had a boyfriend, but told Ms. Jones that she

was living with a friend. When asked why KM was receiving Oklahoma food benefits in 2014, when her Oklahoma ICE and Soonercare benefits had been closed since September 30, 2013 [Protected Exhibit 1, Page 7], or why KM had applied in May 2014 for Oklahoma SNAP benefits but not ICE or Soonercare benefits, Ms. Jones responded that “we tell clients we don’t do Soonercare”.

Ms. Jones testified that she did receive personal SNAP benefits through DHS, as testified by other witnesses. She stated that the benefits were necessary because of her husband’s surgeries, because she was the only household member working, and because they had two foster children to feed. She testified that she followed DHS procedure by applying for benefits out of county. She received a DHS benefits number ending in 9142, and the number was unique to her. Ms. Jones confirmed that she made the charge on her own EBT card on June 14, 2014, as reflected on Protected Exhibit 1, Page 42, and on September 9, 2014, as reflected on Protected Exhibit 1, Page 43, and that there was nothing unusual about her using her personal EBT card on those occasions. Ms. Jones testified that when she applied for SNAP benefits, because she already had TANIF benefits that were handled by the Bryan County DHS office, her supervisor instructed her to contact Bryan County to apply for SNAP benefits. Ms. Jones contacted the Bryan County director, and was referred to caseworker Nabors. Ms. Nabors processed Ms. Jones’ SNAP application. Ms. Jones has known Ms. Nabors for approximately thirteen years.

Ms. Jones testified that Chris Comer first interviewed her at her office sometime in 2014. She did not know he was coming. At the first interview, Mr. Comer asked Ms. Jones if she knew who KM was or if she saw anything odd about KM’s case. Ms. Jones stated that she pulled KM’s case up on the computer and told Mr. Comer that she didn’t remember the case. The interview lasted about 20 minutes, and Ms. Jones answered all of Mr. Comer’s questions.

Mr. Comer interviewed Ms. Jones again on February 2, 2015. She stated that, again, she didn't know he was coming or the purpose of his visit. Ms. Jones testified that Mr. Comer told her she needed to sign two papers before he could discuss the matter. He did not tell her what either paper was, and Ms. Jones stated that she did not read them. She signed the papers, but he did not provide copies to her. Ms. Jones testified that Mr. Comer asked her why she had used the KM EBT card. Ms. Jones responded that she had never used the KM EBT card and did not know why it had been used with her personal debit card. Ms. Jones stated that she told Mr. Comer she had loaned her personal debit card to a friend, Shannon Bays, before, but couldn't remember when and had no records related to it. Mr. Comer then placed Ms. Jones under arrest for violation of the Oklahoma Computer Crimes Act, allowed her to get her purse, handcuffed her and took her to the Atoka County Jail where she was booked and processed. She spent the night in jail and was bonded out the next day. Mr. Comer never interviewed Ms. Jones again.

Ms. Jones testified that Mr. Comer never asked her about the dates the KM EBT card was used. She stated that he had copies of her bank records during the second interview and told her he had proof her personal debit card and the KM EBT card were used together. Ms. Jones testified that no one at DHS ever asked her about her whereabouts on the dates her personal debit card and the KM EBT card were jointly used. Ms. Jones testified that on the Monday after she was released from jail, she contacted the bank to have her debit card cancelled and replaced.

Ms. Jones testified that she and her husband have acted as foster parents through DHS on two occasions. On the first occasion, the Joneses cared for two children through the kinship placement program. These children were in her care until June of 2015. On the day the children were returned to their mother, DHS asked the Joneses to take two new foster kids. At the time, the criminal charges against Ms. Jones were pending, and Ms. Jones informed DHS that she had

been fired by DHS. The Joneses accepted the children and still serve as their foster parents. Ms. Jones stated that DHS wants the Joneses to adopt the children. She stated that DHS policy would only prohibit her from serving as a foster parent if she is convicted of a felony.

Ms. Jones ended her direct testimony by stating that she has never committed a computer crime at DHS or presented fraudulent documents to DHS. She again stated that she did not complete the KM benefits application that was submitted through OK DHS Live.

The undersigned did not find Ms. Jones to be a credible witness.

FINDINGS OF FACT

The parties stipulated that the Merit Protection Commission has jurisdiction over this matter, that the Merit Rules apply, and that this appeal was timely filed. The parties further stipulated that Appellant was a permanent, classified employee of Appellee, and that she was terminated effective March 20, 2015. All stipulations of the parties are incorporated herein as findings of fact.

In addition, the undersigned makes the following findings of fact:

1. KM previously received various benefits, including SNAP benefits, from DHS. Her prior benefits expired in 2013 after KM moved from Oklahoma to North Dakota.
2. Appellant was KM's caseworker during KM's prior benefits and was assigned to work KM's case because Appellant generally handled all applicants whose last name begins with the letter "m".
3. Appellant accessed the DHS computer records regarding KM on May 22, 2014, during Appellant's work hours, without a legitimate business purpose. Although Appellant denied doing so and testified either that she accessed KM's computer records because KM or someone else on KM's behalf called her to discuss Oklahoma benefits for KM or that she would

only have accessed the records if such a call had occurred, no record supports a finding that anyone called Appellant to inquire into KM's case on May 22, 2014. No record of any such call exists on Appellant's daily call log or on her case notes entered into the DHS computer system. KM denies calling DHS in May of 2014 and denies applying for SNAP benefits in May of 2014. In addition, Appellant's inability to remember basic information regarding the existence of KM or her case on some occasions, and her specific memory of minute details (such as KM not telling Appellant during KM's earlier benefits case that KM had a boyfriend) discredits Appellant's testimony. The preponderance of evidence shows that Appellant accessed the DHS computer records on May 22, 2015, without a legitimate business purpose.

4. Within minutes of Appellant's last access to KM's records on the DHS computer system, Appellant submitted an application for SNAP benefits in KM's name and without KM's knowledge or consent. KM did not apply for the benefits. There is no evidence that any person other than Appellant submitted the application through OK DHS Live. Whoever submitted the application through OK DHS Live did so with unusual speed, indicating that the person was familiar with both the OK DHS Live application process and KM's records. Appellant had both contemporaneous knowledge of KM's records and the expertise to complete the online application so quickly. In addition, the fact that KM's EBT card and Appellant's personal debit card were subsequently used in the same transactions, strongly indicates Appellant submitted the KM online application.

5. Appellant subsequently processed and recommended the KM SNAP application for approval, knowing that the application was not submitted by KM.

6. Appellant subsequently, on or after June 18, 2015, obtained an EBT card issued by DHS in KM's name. No evidence explains *how* Appellant obtained the KM EBT card. But

that Appellant obtained the EBT card is virtually without question, and is certainly supported by a preponderance of the evidence. The KM EBT card was, without question, used in conjunction with Appellant's personal debit card, and no credible evidence suggests such charges were or could have been made by anyone other than Appellant.

7. Appellant used the KM EBT card for her own benefit. The KM EBT card was used multiple times with Appellant's personal debit card. Appellant's testimony that her debit card had been previously "hacked" is not credible, and is not supported by the documents Appellant obtained from her bank. By Appellant's own testimony, in issuing its letter stating that Appellant's EBT card had been cancelled and reissued twice because of fraudulent activity, Appellant's bank was relying solely on Appellant's representation to the bank that fraudulent charges had occurred. Although Appellant testified that the bank records did not go back far enough to allow the bank to make its own determination of prior fraudulent activity on her card, the card was only cancelled and reissued in June, 2014, and March, 2015. Appellant's very statement that the bank records "did not go back that far" is not credible, and brings her related testimony into question. In addition, even if credible evidence proved that Appellant's debit card had been "hacked" on prior occasions, no evidence other than Appellant's denial that she made the charges on KM's EBT card that appear on Appellant's bank statement, raises any question about the charges at issue. Moreover, Appellant's detailed testimony of her whereabouts at the times the KM EBT card was used with Appellant's debit card is not credible. It is based on Appellant's own time entries on a calendar that she obtained from her desk after she was fired – a calendar that the investigator, Mr. Comer, who searched her office immediately after Appellant's arrest, apparently did not find or think relevant. That Appellant would keep detailed records of the specific times she took children to a doctor visit, dropped children at daycare, and

appeared at the hospital for her husband's surgery, and at the same time fail to make even general entries of conversations Appellant says she had with KM in May of 2014 – entries that would normally be made in the course of Appellant's duties – raises serious doubt as to the veracity of Appellant's testimony regarding her whereabouts at the specific times her debit card was used in the same transactions as the KM EBT card.

8. Although Appellant had been subject to no prior formal or informal disciplinary action, and despite Appellant's prior PMP ratings, Appellant's termination is consistent with the principles of progressive discipline given the serious nature of Appellant's misconduct.

9. Appellee provided Appellant with notice of the proposed termination, including notice of the statutes and rules that were violated, the specific acts or omissions which are the cause of the termination, an explanation of the evidence justifying the suspension, and Appellant was given an opportunity to respond to the proposed suspension. All notices to Appellant, including the notice of final disciplinary action, were appropriately made.

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 455:10-11-17 states that a permanent classified employee may be terminated for any of the reasons set forth in Merit Rule 455:10-11-14, which include, *inter alia*, misconduct, conduct unbecoming a public employee, and any other just cause.

4. Merit Rule 455-10-9-2 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 the action taken and that the discipline imposed was just.

5. The Personnel Act and Merit Rules provide that an employee must receive notice of the proposed action, which shall include the statute, rule, policy, etc., which was violated, the specific acts or omissions which are the cause of the suspension, an explanation of the evidence justifying the suspension, and the employee must be given an opportunity to respond to the proposed suspension either in writing or orally. 74 O.S. § 840-6.4; OAC 455:10-11-15.

6. The Oklahoma Computer Crimes Act, 21 O.S. § 1953, provides that it is unlawful to willfully and without authorization gain access to and make use of a computer system or to use the system to commit fraud or to deceive for the purpose of obtaining money, services or anything of value.

7. OAC 340:2-1-8 prohibits a DHS employee from using office hours for private gain and from engaging in certain unethical behavior.

8. OKDHS:2-1-7(i)(2)(A) states that it is misconduct for an employee to access confidential information without authorization.

9. OKDHS:2-1-7(i)(2)(F) states that it is misconduct for an employee to be dishonest by, among other things, making false reports or claims, falsifying official forms or other documents, and knowingly withholding information of official interest.

10. OKDHS:2-1-7(i)(2)(I) provides that it is misconduct for an employee to use state property or equipment for personal purposes.

11. OKDHS:2-1-7(i)(5) states that it is misconduct for an employee to engage in conduct unbecoming a public employee.

12. Appellee, Department of Human Services, has met its burden to prove, by a preponderance of the evidence, that Appellant, Shannon Jones, violated The Oklahoma Computer Crimes Act, 21 O.S. § 1953, by unlawfully, willfully, and without authorization, gaining access to DHS computer records and making use of the DHS computer system to commit fraud for the purpose of obtaining money, services and value.

13. Appellee, Department of Human Services, has met its burden to prove, by a preponderance of the evidence, that Appellant, Shannon Jones, violated OAC 340:2-1-8 by using office hours for private gain and by engaging in unethical behavior.

14. Appellee, Department of Human Services, has met its burden to prove, by a preponderance of the evidence, that Appellant, Shannon Jones, violated OKDHS:2-1-7(i)(2)(A) by gaining access to KM's confidential information without authorization.

15. Appellee, Department of Human Services, has met its burden to prove, by a preponderance of the evidence, that Appellant, Shannon Jones, violated OKDHS:2-1-7(i)(2)(F) by submitting a false and fraudulent application for SNAP benefits in the name of KM, by approving such application for SNAP benefits, and by using the KM EBT card for her own benefit instead of the benefit of KM.

16. Appellee, Department of Human Services, has met its burden to prove, by a preponderance of the evidence, that Appellant, Shannon Jones, violated OKDHS:2-1-7(i)(2)(I) by using her state issued computer and DHS computer systems and records for her personal purpose and gain.

17. Appellee, Department of Human Services, has met its burden to prove, by a preponderance of the evidence, that Appellant, Shannon Jones, violated OKDHS:2-1-7(i)(5) by engaging in conduct unbecoming a public employee.

18. Appellee has further met its burden to prove, by a preponderance of the evidence, that it followed all procedural prerequisites to the Disciplinary Action.

19. Appellee has further met its burden to prove, by a preponderance of the evidence that just cause exists for the action taken and that the discipline imposed was just and appropriate 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** and her termination is sustained.

DATED this 30th day of October, 2015.



Matt Hopkins, OBA# 16666
Administrative Law Judge
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