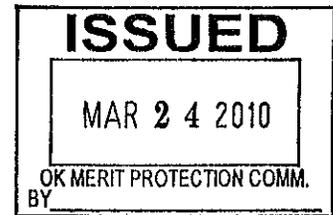


BEFORE THE MERIT PROTECTION COMMISSION  
STATE OF OKLAHOMA

MPC 09-194

*Joel W. Pierce v. DHS*



**EXECUTIVE DIRECTOR ORDER OF DISMISSAL**

Appellant is an Information Systems Applications Specialist, Level IV, #B51D, with the Oklahoma Department of Human Services (DHS). On May 4, 2009, Mr. Pierce filed an appeal with the Commission citing Merit Rules 455:10-19-46(a), Filing an appeal after a formal grievance, and 455:10-19-8, Retaliation – prohibited. In his appeal, Mr. Pierce states, "I believe the grievance decision is incorrect and the decision retaliatory. On April 13, 2009 I spoke with the decision maker about a second grievance that is pending in regard to a change in supervision. I believe the grievance in regard to the oral reprimand was denied only because of the April 13 meeting regarding a second grievance."

Merit Rule 455:10-19-46(a), Filing an appeal after a formal grievance, states in paragraph (2) that an employee may do so after

(2) receiving a resolution decision and the employee can provide evidence the resolution decision was not correct, did not address the issues of the grievance or that violations occurred during the processing of the formal grievance.

455:10-19-8 prohibits retaliation employees for exercising their rights under an agency grievance system. It also provides:

(b) Any employee who believes this section has been violated may file a petition for appeal with the Commission. The petition for appeal shall identify the name of the person alleged to have violated this section and shall be specific as to who did what, when, where, how and why.

**FINDINGS**

On February 19, 2009, the Appellant received an oral reprimand for comments he made in an email that his supervisor thought demonstrated disrespect, disdain or contempt for DHS administrators, supervisory personnel or other proper authorities.

Merit Rule 455:10-11-11(a). First phase-informal discipline

The first phase of progressive discipline shall be informal discipline and may include steps of verbal warning, informal discussion, corrective interview and oral reprimand, etc. This phase shall serve to streamline the progressive discipline system and to bring potential problems to an employee's attention before they escalate. Documentation of informal discipline may be noted and maintained by the supervisor and the employee.

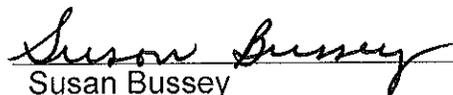
On or about March 19, 2009, the Appellant filed an internal agency grievance regarding his oral reprimand, adjusting his work hours, and requesting courtesy treatment from his supervisor and director. On April 21, 2009, the Appellant received a grievance decision letter from Sarjoo Shah. The letter denied the request to rescind the oral reprimand, advised the Appellant of the process for requesting an adjustment to his work hours and granted his request to be treated courteously by his supervisor and director.

The Appellant states, as the basis of the retaliation allegation, that his grievance in regard to the oral reprimand was denied "...only because of the April 13 meeting regarding the second grievance." Evidence was not provided in support of this claim.

**CONCLUSION**

The Appellant failed to provide information to indicate that a violation of Merit Rule 455:10-11-11(a). First phase-informal discipline has occurred. Appellant failed to provide evidence in support of the allegation that a violation of 455:10-19-8, Retaliation – prohibited has occurred.

In accordance with Merit Rule 455:10-3-13(a)(1). Dismissal of appeals, this appeal is dismissed due to insufficient evidence to support the allegations.



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