



KANSAS

D. KENT HURN, CHAIRPERSON

DEPARTMENT OF ADMINISTRATION
CIVIL SERVICE BOARD

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TO: George Vega, Director, Division of Personnel Services
Tracy Diel, Director, Office of Administrative Hearings
D. Kent Hurn, Chairman, Civil Service Board

FROM: Peggy Graham, Secretary, Civil Service Board

DATE: January 16, 2007

SUBJECT: Quarterly Update

The following reflects the Civil Service Board cases in which action was taken since the October 15, 2006 quarterly report:

A. Cases Decided and/or Disposed Of:

1. 3-day suspension *affirmed*
Ellsworth Correctional Facility
Correctional Specialist III. The appellant was the shift captain on duty during the evening shift for approximately 14 years. One evening he received notice from the facility nurse that an inmate would need to be transported to the hospital in Wichita. The appellant made the appropriate arrangements for the transport, however, he is also required to notify the warden when an inmate needs to leave the facility for an unscheduled reason. The appellant failed to notify the warden of the inmate's departure as required. After hearing all of the evidence the Board found the decision of the appointing authority to be reasonable.

2. demotion *modified*
Ellsworth Correctional Facility
Correctional Specialist III to a Correctional Specialist I. The appellant was the shift captain on duty on June 4, 2006. At approximately 2:00 pm, the appellant was notified that a facility vehicle had broken down on interstate 70 near the Ellsworth exit. The appellant decided that because he may not be able to find a maintenance person to get the vehicle on a Sunday, he would let the vehicle remain on the side of the road until the following morning. When the next shift captain reported for duty at approximately 9:30 pm, he learned of the vehicle on the side of the road. That person suggested the appellant check with their supervisor to see if it was ok to leave the vehicle. The appellant later learned that the Deputy Warden had ordered the vehicle to be picked up immediately as the facility practice has always been not to leave a vehicle on the

roadside. After hearing all of the evidence the Board found that while disciplinary action was reasonable (with 14 years of experience, the appellant should have known better than to leave a disabled vehicle on the side of the road overnight), the demotion proposed by the agency was unreasonable. The Board modified the action to a 10 day suspension without pay.

3. dismissal *dismissed*
Wichita State University
Equipment Operator. The appellant was dismissed in April 2006. He filed his appeal in November 2006. The request for hearing was dismissed for being filed out of time.
4. dismissal *dismissed*
Juvenile Justice Authority
Juvenile Correctional Officer I. The appellant lost his security clearance when he was convicted of possession of a hallucinogenic drug and driving on a suspended driver's license. He failed to appear at his scheduled hearing and a default order was issued against him.
5. dismissal *withdrawn*
Kansas Neurological Institute
Developmental Disability Technician. The appellant was dismissed for poor work performance and for misrepresenting the cause and severity of an injury to a client that occurred while the appellant was caring for the client. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
6. demotion *dismissed*
Department of Social and Rehabilitation Services
Human Services Specialist (HSS) to Human Services Assistant. The appellant was promoted into the HSS position and placed on probation pursuant to the promotion. At the conclusion of the probationary period, the appellant was demoted to her previous classification for failure to successfully pass the probationary period. The appellant's request for hearing was dismissed for lack of jurisdiction as she was demoted pursuant to K.S.A. 75-2944(b).
7. dismissed *dismissed*
Wichita State University
Carpenter Senior. The appellant did not file his request for a hearing within the 30 days permitted by statute. His appeal was dismissed as untimely filed.
8. grievance *dismissed*
El Dorado Correctional Facility
Correctional Officer. The appellant appealed a decision made by the Secretary of Corrections with respect to a grievance that the appellant had filed. The Board lacks jurisdiction to hear appeals regarding grievance decisions. In addition, the request for hearing was filed more than 30 days after the Secretary's decision was issued. The request for hearing was dismissed for lack of jurisdiction.
9. dismissal *withdrawn*
Wildlife and Parks
Natural Resource Officer I. The appellant was unable to satisfactorily perform her job duties. The parties reached a settlement prior to the hearing date and the appellant withdrew the appeal.
10. dismissal *affirmed*
Department of Revenue

Auditor II. The appellant fraudulently created a receipt showing a four night stay at a Bed and Breakfast that does not exist. Rather, she stayed with her cousin and called the home a Bed and Breakfast, adding sales and transient guest taxes to the receipt so that it would not be questioned by the Department when her travel voucher was processed. After hearing all of the evidence, the Board found that the decision of the appointing authority was reasonable.

11. 30-day suspension and dismissal *dismissed*
Department of Revenue
Staff Development Specialist I. The appellant was first suspended for 30 days then was dismissed for failure to maintain a harmonious working relationship with her coworkers. The actions were consolidated for hearing. After 2 ½ days of hearing, the appellant walked out of the proceedings after being warned that doing so would result in a proposed default order being issued against her.
12. 10-day suspension *affirmed*
Department of Transportation
Equipment Operator Senior. The appellant was involved in a fifth preventable accident in 18 months when he drove a large riding mower on a slope which caused the mower to slide and roll off a culvert wing wall and land on its side at the bottom of the culvert causing extensive damage to the mower. The appellant had been previously warned not to drive that particular mower on a slope as it tended to slide in such situations. After hearing all of the evidence, the Board found that the decision of the appointing authority was reasonable.
13. 20-day suspension *modified*
Department of Transportation
Equipment Operator Senior. The appellant was involved in a seventh preventable accident in 18 months when he drove a large riding mower into an object that caused a three inch hole in the mowers gas tank. Approximately 5-10 gallons of diesel fuel spilled on the shoulder and in the grass of the right-of-way as a result. The appellant was unaware that he had hit the object until the mower unexpectedly ran out of fuel. After hearing all of the evidence the Board found that while disciplinary action was reasonable, the 20-day suspension proposed by the agency was unreasonable. The Board modified the action to a 15-day suspension without pay.
14. 3-day suspension *affirmed*
Topeka Correctional Facility
Correctional Officer II. The appellant brought a rose into the facility for his desk. When several inmates took the rose to use for a party, he allowed them to keep the rose, knowing that doing so was improper. In addition, he copied a poem from a piece of paper into an address book for an inmate in violation of agency policy. After hearing all of the evidence, the Board found that the decision of the appointing authority was reasonable.
15. 3-day suspension *withdrawn*
Topeka Correctional Facility
Correctional Officer II. The appellant breached agency confidentiality when he spoke with an inmate about an agency matter. The parties reached a settlement agreement prior to the hearing and the appellant withdrew his request for a hearing.
16. dismissal *withdrawn*
Larned Correctional Mental Health Facility
Correctional Officer I. The appellant was observed permitting inmates to deal and trade. The appellant facilitated this practice by allowing security wickets to remain open and allowing an

inmate to pass an item to another inmate. He also passed a magazine and a closed meal container between two inmates in direct violation of agency policy. The parties reached a settlement agreement and the appellant withdrew his request for a hearing.

17. demotion *dismissed*
El Dorado Correctional Facility
Correctional Officer II to Correctional Officer I. The appellant was promoted to a CO II position from a CO I position. While still on probationary status from that promotion, the appellant was demoted back to his previous position. The matter was dismissed for lack of jurisdiction.

B. Cases Filed Between October 15, 2006 and January 15, 2007:

1. action not listed, Scott Watkins, El Dorado Correctional Facility, filed October 20, 2006
2. action not listed, El Dorado Correctional Facility, filed October 31, 2006
3. demotion and suspension, Hutchinson Correctional Facility, filed November 1, 2006
4. 3-day suspension, Department of Corrections, filed November 9, 2006
5. dismissal, Larned State Hospital, filed November 13, 2006
6. dismissal, Wichita State University, filed November 14, 2006
7. 3-day suspension, Lansing Correctional Facility, filed November 17, 2006
8. dismissal, Social and Rehabilitation Services, filed November 17, 2006
9. dismissal, Rainbow Mental Health Facility, filed November 22, 2006
10. dismissal, Topeka Correctional Facility, filed November 28, 2006
11. 3-day suspension, State Fire Marshal, filed November 29, 2006
12. 20-day suspension, Department of Transportation, filed December 6, 2006
13. 10-day suspension, Topeka Correctional Facility, filed December 7, 2006
14. 3-day suspension, Parsons State Hospital and Training Center, filed December 15, 2006
15. dismissal, Parsons State Hospital and Training Center, filed December 15, 2006
16. dismissal, Kansas Veteran's Home, filed December 21, 2006
17. mail opened, Ellsworth Correctional Facility, filed December 22, 2006
18. failure to interview and whistleblower, filed October 22, 2006 (rec'd by CSB 12/28/06)
19. 5-day suspension, KU Medical Center, filed December 28, 2006
20. dismissal, Topeka Correctional Facility, filed January 4, 2007
21. dismissal, Rainbow Mental Health Facility, filed January 4, 2007
22. demotion, El Dorado Correctional Facility, filed January 4, 2007
23. 3-day suspension, Department of Commerce, filed January 8, 2007
24. dismissal, Kansas State University, filed January 8, 2007
25. 5-day suspension, Department of Commerce, filed January 10, 2007
26. 3-day suspension, Wichita Work Release Facility, filed January 10, 2007
27. dismissal, Department of Revenue, filed January 10, 2007
28. 3-day suspension, Department of Social and Rehabilitation Services, filed January 11, 2007

C. Cases Still To Be Heard:

1. dismissal, Rainbow Mental Health Facility, set 2/5/07
2. 3-day suspension, Department of Corrections, set 3/6/07
3. dismissal, Department of Commerce, set 2/21/07
4. dismissal, Larned State Hospital, set 3/21/07
5. demotion and suspension, Hutchinson Correctional Facility, set 3/20/07
6. demotion, El Dorado Correctional Facility, set 2/7/07
7. failure to interview and whistleblower, date to be determined
8. dismissal, Parsons State Hospital, set 1/16/07

9. dismissal, El Dorado Correctional Facility, set 3/7/07
10. dismissal, Wichita Work Release, set 2/20/07
11. 3-day suspension, Parsons State Hospital and Training Center, set 1/23/07
12. dismissal, Department of Revenue, set 2/5/07
13. dismissal, Social and Rehabilitation Services, set 4/4/07
14. dismissal, Kansas Veteran's Home, set 5/8/07
15. 3-day suspension, Social and Rehabilitation Services, set 2/8/07
16. dismissal, Parsons State Hospital and Training Center, set 1/24/07
17. dismissal, Highway Patrol, set 2/22-23/07
18. dismissal, Kansas Neurological Institute, set 3/19/07
19. 5-day suspension, KU Medical Center, set 2/19/07
20. 5-day suspension, Wichita Work Release, set 2/21/07
21. mail opened, Ellsworth Correctional Facility, motion for dismissal pending
22. dismissal, Topeka Correctional Facility, set 4/18/07
23. 5-day suspension, Department of Commerce, set 2/23/07
24. dismissal, Kansas State University, set 2/19/07
25. 3-day suspension, State Fire Marshall, motion for dismissal pending
26. 10-day suspension, Topeka Correctional Facility, set 4/16/07
27. 3-day suspension, Department of Commerce, set 2/7/07
28. 3-day suspension, Osawatomie State Hospital, set 2/8/07
29. 3-day suspension, Department of Social and Rehabilitation Services, set 2/9/07
30. 3-day suspension, Lansing Correctional Facility, set 1/2/07
31. dismissal, Parsons State Hospital, set 2/6/07
32. dismissal, Rainbow Mental Health Facility, set 4/3/07
33. dismissal, Topeka Correctional Facility, set 2/6/07

D. Statistics for Completed Cases:

1. Dismissals: 8
2. Demotions: 3
3. Suspensions: 6
4. Other: 1

1. Affirmed: 4
2. Reversed: 0
3. Modified: 2
4. Dismissed: 8
5. Withdrawn: 4

1. Department of Corrections: 7
2. Revenue: 3
3. Social and Rehabilitation Services: 2
4. Department of Transportation: 2
5. Wichita State University: 2
6. Wildlife and Parks: 1
7. Juvenile Justice Authority: 1