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Joel Parker

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**BEFORE THE TENNESSEE
CIVIL SERVICE COMMISSION**

IN THE MATTER OF:

Joel Parker

DOCKET NO: 26.42-108927J

ORDER

This matter came to be heard on November 5, 2010, before Rob Wilson, Administrative Judge, assigned by the Administrative Procedures Division, sitting for the Tennessee Civil Service Commission in Jackson, Tennessee. The Tennessee Bureau of Investigation (TBI) was represented by Bryan Noel, Esq. The Grievant was present and represented by Steven Barnat, Esq.

The subject of this hearing was the grievance filed by the Grievant as a result of the termination of his employment by the TBI. After consideration of the record in this matter it is determined that the Grievant's termination is **UPHELD**. This decision is based upon the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Grievant Joel Parker was employed by the Tennessee Bureau of Investigation as a Special Agent from May 1, 2004 until his termination on May 21, 2010. At the time of his termination Mr. Parker was a special agent assigned to the Bureau's office in Jackson.

2. Mr. Parker was supervised by Special Agent in Charge John Mehr and by Assistant Special Agent in charge Jack Van Hooser.

3. On or about March 22, 2010, information came to the attention of the TBI concerning internet postings made by the Grievant that could compromise TBI's position in ongoing litigation.

4. Agent John Mehr received this information from an attorney involved in a wrongful death suit against the local government stemming from a law enforcement shooting. Grievant Parker was investigating the death as part of his official duties and was a likely witness in this litigation. After receiving this information Agent Mehr conducted a preliminary inquiry into the matter along with special agent in charge Jack Van Hooser.

5. The inquiry consisted of viewing the website "2old2play," a web log created and maintained by Grievant Parker. After viewing the website and speaking with Grievant Parker, the information was forwarded to TBI Headquarters in Nashville.

5. On March 23, 2010, Grievant Parker was notified in writing that he had been placed on administrative leave pending a due process hearing.

6. At the direction of TBI Headquarters, Agents Mehr and Van Hooser took a sworn statement, to include a Garrity warning, from Grievant Parker on March 24, 2010 to get his side of the story. In his statement, Grievant Parker admitted to authoring the postings in question, and also admitted that the postings could possibly interfere with his duties and that they reflected poorly on the TBI.

7. Ed Jones, Assistant Director of Administration, directed that the initial administrative investigation into this matter be made an internal investigation.

8. The Grievant's government-issued laptop computer was then examined by the Technical Services Unit and written findings were issued on March 29, 2010.

9. The findings of the Technical Services report indicated that Grievant Parker accessed the "2old2play" website on numerous occasions.

10. The report further revealed the following internet website posts made by Grievant Parker:

- a. On March 20, 2010, Grievant Parker posted comments concerning the leak of information concerning the Mark Carrier/Roy Glenn case in Humboldt, Tennessee.
- b. On June 22, 2010, Grievant Parker posted information concerning law enforcement training.
- c. On March 18, 2009, Grievant Parker posted inappropriate comments regarding overweight people.
- d. On January 7, 2009, Grievant Parker posted information concerning his role in internal affairs at the Bureau.
- e. On September 24, 2008, Grievant Parker posted comments regarding law enforcement training.
- f. On July 9, 2010, Grievant Parker posted several color photographs of the TBI surveillance aircraft including the tail numbers and the interior of the cockpit.

- g. On July 11, 2007, Grievant Parker posted information about an incident at a movie theater where he yelled at an elderly couple and a group of teenagers. Specifically, he told the elderly couple to “shut up or get out,” and told the teenagers to turn their phones off or “get out of here, because if you don’t, you’re gonna eat that phone.” He further went on to describe himself as “a large man with a shaved head and a goatee who was visibly armed with a gun since I had just got off work.” The post was titled “The Redneck Unleashed.”
- h. On January 17, 2007, Grievant Parker posted that he is “on the edge of making an arrest” in an ongoing investigation.
- i. On August 11, 2006, Grievant Parker posted information concerning a party he attended including photos of sex toys and a child-like blow up sex doll.
- j. On June 29, 2009, Grievant Parker posted information concerning law enforcement training.

11. On April 7, 2010, Grievant Parker was notified in writing that his termination was being considered and that a due process hearing would be held on April 27, 2010, at TBI Headquarters in Nashville.

12. On May 11, 2010, Grievant Parker was notified in writing that his employment was terminated.

CONCLUSIONS OF LAW

1. In a fifth step hearing, an administrative judge presides to take proof and render an initial order which is subject to review by the Civil Service Commission.

T.C.A. §4-5-301.

2. It is a de novo proceeding, and no presumption of correctness attaches to the action of the agency. Big Fork Mining Co. v. Tennessee Water Quality Control Board, 620 S.W. 2d 515, at 521 (Tenn. App. 1981).

3. The burden of proof rests with the agency and the agency must prove by a preponderance of the evidence that 1) the Grievant acted or failed to act as the agency alleges; 2) the Grievant's action constitutes a disciplinary offense; and 3) the recommended discipline is appropriate for the given offense.

4. The Tennessee Bureau of Investigation bears the burden of proof in this case. The standard of proof is a preponderance of the evidence. TN Dept. of State, Administrative Procedures Division, Rule 1360-4-1-.02(3)(7).

5. TBI Policy 3-2-002, Standards, states "TBI employees, whether on or off duty, shall not commit any act that would reflect discredit upon themselves or the Bureau or would hamper their ability to perform their duties," and "It is the policy of the TBI to warn, suspend, demote, or dismiss any employee whenever circumstances warrant and just legal cause exists to do so."

6. TBI Policy 3-2-002(B)(12), Confidential Information, states in relevant part "confidential information shall not be divulged or disseminated without proper authorization from the Director or his designated representative."

7. TBI Policy 3-2-002(B)(8)(f), Misuse of TBI Equipment, states that “misuse of Bureau property, telephones, is prohibited.”

8. TBI Policy 3-2-002(B)(9)(a), Personal Conduct, is “Failure to meet the public with courtesy and consideration, employing no harsh, profane, indecent, offensively suggestive, sarcastic or insulting language, failure to answer all questions promptly and courteously, and avoid arguments and controversy.”

9. TBI Policy 3-1-002(A)(1), Standards for Employee Conduct, states that “TBI employees shall conduct themselves in a professional and ethical manner at all times, avoiding even the appearance of impropriety, so as not to bring discredit upon themselves, the TBI, or the State of Tennessee.

10. TBI Policy 3-1-002(A)(3), Standards for Employee Conduct, states “in the absence of specific law, policy, rules, or standards, all TBI employees shall be responsible for the proper exercise of good judgment and ethical behavior.”

ANALYSIS

The mission of the Tennessee Bureau of Investigation is to investigate and assist in the prosecution of the most serious crimes committed in Tennessee, which can include public and police corruption, sex crimes, serious drug crimes, and high profile violent crimes. One of the most important aspects of a Special Agent’s duties is to offer credible testimony in support of such prosecutions in court. Special Agents are held to a higher standard than other law enforcement officers. Accordingly, TBI carefully screens and investigates all Special Agents prior to them being hired to ensure that they exercise good judgment and ethical values. The public internet postings, made by Grievant on his

personal web log over a period of several years, demonstrate that he lacks the prerequisite good judgment, maturity and professionalism to continue as a Special Agent with the

TBI. The following is a word-for-word excerpt from Grievant Parker's web log:

The Redneck Unleashed (Posted 7/11/07)

I'm a pretty patient guy (COD3 doesn't count). It usually takes a lot to get me to go off on a random person who irritates me. Being a cop got me to be pretty good at holding my tongue with stupid people. Basically, I'm a pretty decent guy to be around until someone does something that releases my inner redneck. When he gets loose, it gets ugly...especially if Dixie (my wife) isn't around to kind of reign me in. Today, she was out-of-state and he got out.

After work, I decided to check out a matinee of the new Harry Potter movie. I got there and scope out a seat that is pretty much separated from most people. One of my pet peeves is people who talk during a movie. Once the previews start, I want silence. I get very IRRITATED with people who don't shut up during a movie.

Anyway, I was sitting there and this old couple sits down right in front of me. I'm a little perturbed by this but figure it is better than having a Jr. High cheerleading squad in front of me. I knew there might be trouble when they started having a conversation before the previews. When I say conversation, I mean they weren't speaking in hushed whispers. They were talking like they were at home sitting at the dinner table.

The reviews start and they keep going. I am mildly irritated but 1) I'm a Southern boy who was raised to respect your elders and 2) it is just the previews...surely they'll shut up during the actual movie. I was wrong.

The movie begins and they keep talking about different stuff. Given it wasn't constant but it was with enough frequency to start the redneck to rattling his cage.

I may have been fine but then, about 10 minutes into the movie, four 12-year-olds (2 boys, 2 girls) come in and plop down 2 seats down from me in my row. I hear one of the boys whisper, "I need to call my mom." And pull out a cellphone. It wasn't so bad because he spoke in a very low whisper, kept it to the bare minimum, and hung up. He could have done this before entering the theatre but oh well. The problem with them was the Timmiettes. They start giggling and talking on their cell phones. The redneck is now ramming his cot into the cell door.

At approximately the 20 minute mark between Ma and Pa Kettle discussing Aunt Bessie's bunyuns and the Timmiettes cackling into their Motorolas, the redneck burst from his cage and I decided I needed to take action.

I leaned up and put my head between Ma and Pa and said the following words. I started out speaking in a moderately low tone but gradually got louder as I went. When I finished I wasn't yelling, but I wasn't far from it. (Let me take a moment to say that I'm a large man with a shaved head and goatee who was visibly armed with a gun since I just got off work. Also, six years on patrol helped me to find ways to really make my voice carry when I want to be heard and I WANTED TO BE HEARD.)

I say "Excuse me. Normally I wouldn't do this but, since you don't mind being rude, neither do I. I paid six-fifty to hear this movie...not the two of you, so either SHUT UP OR GET OUT!"

I thought they were both going to have a major stroke from the looks they were giving me but then there was the coup-de-grace. With perfect timing, Timmiette One's cell phone rang at the almost precise moment I finished. I slowly tuned my head to look at her and all four, who were already looking at me, got this deer in the headlights look.

I said to her (in a very quiet voice), "Do you like your phone? If you do, I suggest you turn it off or get out of here because, if you don't, you're gonna eat that phone."

When I finished, the people sitting around us gave a little clap. I think that was the finishing touch because she started to cry and all four left. About 2 minutes later, Ma and Pa Kettle left and I enjoyed the rest of the movie in peace.

I managed to restrain the redneck by the end of the movie and all is now well.

Posted by RogueRedneck @ 10:13 pm EDT.

This blog post alone violates TBI Policies 3-2-002(A), 3-2-002(B), and 3-1-002(A)(1) and (3). Grievant Parker most definitely, while off duty, committed an act that would reflect discredit upon himself and the TBI. Furthermore, he failed to meet the public with courtesy and consideration, and he most certainly didn't avoid arguments and controversy, nor did he exercise good judgment or ethical behavior. Although there was

some testimony given which alluded to the fact that Grievant Parker may have slightly embellished this story and even fabricated parts of it, the conclusion is that he either made a twelve year old girl cry and leave the movie theatre, or he wanted people to think he made a twelve year old girl cry and leave the movie theatre. His actions reflect poorly on the TBI either way.

Additionally, Grievant's blog contains a post with detailed descriptions of sex toys entitled "A Tale of Two Dongs," as well as posts discussing ongoing investigations, overweight people, and actual arrests that Grievant has made while on duty.

The internet postings made by the Grievant have compromised his ability to fulfill his duties as a TBI Special Agent and demonstrate that he lacks the necessary judgment, maturity, and professionalism to continue as a Special Agent with the TBI. He has compromised his credibility as a witness in criminal proceedings and has greatly increased the risk of his character being susceptible to impeachment in cross examinations. This is simply an unacceptable risk for the TBI considering the nature of the crimes that they investigate and prosecute.

It is CONCLUDED that the Tennessee Bureau of Investigation has met their burden of proving that Grievant Parker repeatedly violated the rules and policies of the TBI and that termination of employment is an appropriate discipline for such offenses.

Based on the foregoing, the decision of the Tennessee Bureau of Investigation to terminate the employment of Joel C. Parker is **AFFIRMED**.

This Order entered and effective this 20th day of May, 2011.

Rob Wilson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 20th day of May, 2011.

A handwritten signature in black ink that reads "Thomas G. Stovall". The signature is written in a cursive style with a large, looping initial "T".

Thomas G. Stovall, Director
Administrative Procedures Division