



2-6-2007

BOARD OF PROBATION AND PAROLE,
Agency/, Petitioner, vs. Docket No.: 26.41-082855J
CSGP # 05-80SHEILA WILLIAMS, Grievant/,
Respondent.

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BEFORE THE TENNESSEE CIVIL SERVICE COMMISSION

BOARD OF PROBATION AND PAROLE,]	
<i>Agency/Petitioner,</i>]	
vs.]	Docket No.: 26.41-082855J
]	[CSGP # 05-80]
SHEILA WILLIAMS,]	
<i>Grievant/Respondent.</i>]	

INITIAL ORDER

This contested administrative case was heard on February 6, 2007, in Memphis, Tennessee, before J. Randall LaFevor, Administrative Judge, assigned by the Secretary of State, and sitting for the Civil Service Commission for the State of Tennessee. Mr. C. Edward Scudder, Jr., represented the Agency, The Board of Probation and Parole (“BOPP” or “the Agency”). The Grievant, Sheila Williams, was represented by her legal counsel, Mr. Darrell J. O’Neal. Upon conclusion of the hearing, the matter was taken under advisement, pending submission of the parties’ Proposed Findings of Fact and Conclusions of Law. Those documents were filed by April 16, 2007, and this matter was declared ready for consideration.

This administrative proceeding was a fifth-step disciplinary hearing, convened at the Grievant’s request, to consider the termination of her state employment by the Chairman of the Board of Probation and Parole for engaging in certain prohibited conduct, including *(1) failure to maintain a satisfactory and harmonious working relationship with the public and fellow employees; (2) gross misconduct unbecoming an employee in the State service; (3) participating in any action that would seriously disrupt or disturb the normal operation of the agency, or interfere with the ability of management to manage; (4) for the good of the service; and, (5) violation of the Agency’s Ethics Policy.* Upon consideration of the evidence and arguments of counsel, and the entire record, it is determined that the Grievant engaged in the prohibited conduct, as charged, and that the proper disciplinary sanction for those offenses is termination from state employment. This determination is based on the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Grievant, Sheila Williams, was employed as a Probation and Parole Officer II (“PPO2”) by the Tennessee Board of Probation and Parole from December 6, 1999 until her separation on October 6, 2005. The duties of a PPO2 include supervision and monitoring of offenders, completing violation reports when an offender breaks any of the rules for which he was placed on parole or probation, attending hearings, and working with all levels of law enforcement agencies and their personnel.

2. In November 2004, the Grievant made numerous allegations of harassment against her supervisor, Probation and Parole Manager Jacqueline Williams. The Grievant's allegations were thoroughly investigated and the Agency determined that the actions of Jacqueline Williams fell within the category of normal supervisory counseling and reasonable work assignments. There was no indication that the Grievant was singled out, or was being treated any differently than any other employee.

3. Jacqueline Williams also made several complaints regarding the Grievant's threatening and hostile behavior toward her. On January 12, 2005, while passing her supervisor, Jacqueline Williams, in the BOPP office hallway, the Grievant intentionally elbowed her. Upon being informed of the incident, management sent the Grievant home on administrative leave. In an effort to resolve this conflict and prevent further physical altercations, the Agency transferred the Grievant to another office and assigned her to a different supervisor, Probation and Parole Manager, Shirley Minor (“Minor”). The Grievant received a written warning for this elbowing incident on January 27, 2005; she was informed that this type of behavior would not be tolerated, and that further incidents would result in additional “disciplinary action up to, and including termination.”

4. The Grievant's behavior did not improve under the supervision of Minor. The Grievant continuously acted in a disruptive, hostile, threatening, and intimidating manner toward Minor. On March 28, 2005, during a discussion with Minor, the Grievant stated that Jacqueline Williams (her former supervisor) had a husband to take care of her but that Ms. Minor did not, and that she had better watch out. Ms. Minor asked the Grievant if her statement was a threat; the Grievant stated that it was, and continued to tell Ms. Minor that she did not know her job.

5. According to District Director, Helen Ford, both Jacqueline Williams and Shirley Minor were long-time, fair and honest employees, and good supervisors. She had never received any complaints about either of them.

6. On April 7, 2005, the Agency sent a letter to the Grievant by regular U.S. mail and certified return receipt, notifying her of the intent to suspend her employment for three days without pay, due to her threatening behavior toward her supervisor.¹ Shortly thereafter, on April 14, 2005, the Grievant requested Family Medical Leave on the recommendation of her physician. This three-day suspension was never served. The action regarding the three-day suspension was held in abeyance pending her return to work.

7. On April 27, 2005, while on sick leave, the Grievant telephoned Major Glenn Williams of the Memphis Police Department at his place of employment. Major Williams is the husband of the Grievant's former supervisor, Jacqueline Williams. The Grievant informed Major Williams that his wife was having an affair with a co-worker and that Major Williams was probably not the father of his wife's children. The Grievant also directed threatening comments toward Jacqueline Williams, stating that she believed Jackie was out to get her, but she was "going to get Jackie first." Major Williams perceived these comments as a threat and feared what might happen to his wife.

8. During the hearing, the Grievant admitted contacting Major Williams and making statements regarding his wife's unfaithfulness and the paternity of his children. She also acknowledged that she used bad judgment and made a mistake by contacting Major Williams.

9. Beginning in late March, 2005, the Grievant was treated by Dr. Valerie Augustus, psychiatrist with Christian Psychiatric Services in Memphis, whose deposition testimony shows that the Grievant misled Dr. Augustus regarding her episodes of unprofessional conduct in the workplace, choosing to cast herself in a favorable light, and to blame others for the problems that she caused at the BOPP office. Based on the Grievant's self-reporting and in-office observations, Dr. Augustus diagnosed her condition as an "adjustment disorder with depressed

¹ The Grievant claims she did not receive this letter. The certified return receipt letter was returned unclaimed, despite the fact that the correct address was on the envelope. The regular mail letter was not returned.

and anxious mood,” resulting from “job harassment,” noting the Grievant’s self-described symptoms of sleep difficulties, low energy level, and impaired memory and concentration. Dr. Augustus prescribed medications, and, according to her progress notes, by June 13, 2005, the Grievant’s symptoms had diminished to a level that prompted her to conclude that the Grievant was ready to return to work. Based on the Grievant’s unreliable accounts of unfair treatment at the BOPP office, she further recommended that she return under a different supervisor.² After that date, the Grievant continued to make progress in her treatment while on her medications, but experienced difficulties during periods when she decided to stop taking her drugs. In August, 2005, the Grievant admitted to Dr. Augustus that she harbored homicidal thoughts toward her former co-workers. In January 2006, shortly before terminating her as a patient, Dr. Augustus prescribed that the Grievant should “listen to God and follow his directions to her.”

10. On June 28, 2005, the Agency notified the Grievant that it intended to terminate her employment for violations of [1] the Agency's Code of Ethics, and [2] the Rules and Regulations of the Tennessee Department of Personnel. Due to the Grievant's previous physical incidents and threats, the Agency believed that it had legitimate reasons to fear that the Grievant might carry out her threats. Following a hearing before an Agency representative, the Grievant’s employment was terminated by a letter from the Chairman of the BOPP, dated October 6, 2005.

CONCLUSIONS OF LAW

1. The Board of Probation and Parole is the Petitioner in this matter, the party that initiated the proceedings, and as such, is assigned the “burden of proof.” The burden of proof is the duty imposed upon a party to establish, by a preponderance of the evidence, that an allegation is true, or that an issue should be resolved in favor of that party. A “preponderance of the evidence” means the “greater weight of the evidence,” or “the more probable conclusion, based on the evidence presented.” The burden of proof is generally assigned to the party seeking to change the present state of affairs with regard to any issue. Rule 1360-4-1-.02(7), TENN. COMP. R. &

² On August 24, 2005, in a Medical Certificate supporting a request for unemployment insurance benefits, Dr. Augustus reaffirmed her assessment that the Grievant was able to return to work, and that she had been able to do so since June 13, 2005. She signed that document only two days after the Grievant had disclosed her homicidal thoughts toward her former co-workers on August 22, 2005. Her progress notes reflect no contact with her patient between August 22 and August 24.

REGS. In the instant case, that means that the Board of Probation and Parole must prove, by a preponderance of the evidence, that the Grievant engaged in conduct prohibited for State employees, as described in Rule 1120-10-.06, TENN. COMP. R. & REGS., or that she violated the BOPP Code of Ethics Policy, and that separation from state employment is the appropriate disciplinary response.

2. *The Rules of the Tennessee Department of Personnel, Disciplinary Action, Chapter 1120-10, TENN. COMP. R. & REGS,* describe certain prohibited conduct for State employees that may result in disciplinary action being taken against them. As a State employee, the Grievant knew, or should have known, of the application of those *Rules* to her conduct. Those *Rules* contain the following provisions:

1120-10-.06 EXAMPLES OF DISCIPLINARY OFFENSES. The following causes are examples of those considered for disciplinary action and should not be considered the only causes of action.

* * *

(4) Failure to maintain satisfactory and harmonious working relationships with the public and fellow employees.

* * *

(8) Gross misconduct or conduct unbecoming an employee in the State service.

* * *

(12) Participation in any action that would in any way seriously disrupt or disturb the normal operation of the agency, institution, department or any other segment of the State service or that would interfere with the ability of management to manage.

* * *

(24) For the good of the service as outlined in T.C.A. 8-30-326.

3. The Grievant's behavior toward other BOPP employees, especially her supervisors, was less than professional. On more than one occasion, she directed intimidating and threatening language toward her supervisors, and frequently refused to accept reasonable direction from them. Rather than accepting constructive criticism from her supervisors, she defied their authority, and chose to file frivolous complaints and grievances. On at least one occasion she

even initiated physical contact with her supervisor, hitting her with her elbow. Clearly, these actions demonstrated [1] her failure to maintain a satisfactory and harmonious working relationship with her fellow employees³; and [2] her participation in actions that seriously disrupted or disturbed the normal operation of the agency, and interfered with the ability of management to manage.⁴

4. On April 27, 2005, the Grievant telephoned Police Major Glenn Williams at his office at the Memphis Police Department to inform him that his wife was having an affair with a BOPP co-worker, and that Major Williams was probably not the father of his wife's children. That call was placed for no lawful purpose, but simply to attempt to incite distrust and animosity between Major Williams and his wife, the Grievant's supervisor, Jacqueline Williams. Additionally, during that conversation, the Grievant stated that she was going to "get Jackie." Major Williams perceived this comment as a threat and feared what might happen to his wife.⁵ The Grievant's conduct during that telephone call was harassing, threatening, abusive, and outrageous, served no legitimate purpose, and fits squarely within the category of "conduct unbecoming an employee in the State service."⁶

5. In *Steiner v. City of Akron*, 2000 WL 960958 (Ohio App. 9 Dist.) The Court defined conduct unbecoming as either "failure of good behavior or as bad behavior." In that case, a city employee was terminated for threatening bodily harm and cursing at another employee. The court stated "this type of conduct, whether verbal or physical, directed at a co-worker or supervisor, warrants dismissal." The court went on to say that to contend that this type of conduct was anything other than conduct unbecoming would only empower an employee to curse and threaten fellow workers at will.

6. The Agency also offered a viable argument that the Grievant's phone call to Major Williams, and the threat and physical conduct directed toward his wife, rise to the level of gross

³ See, Rule 1120-10-.06(4), TENN. COMP. R. & REGS., *Rules of the Tennessee Department of Personnel*.

⁴ See, Rule 1120-10-.06(12), TENN. COMP. R. & REGS., *Rules of the Tennessee Department of Personnel*.

⁵ While not conveyed during that conversation, it is somewhat chilling to note that the Grievant later disclosed to her psychiatrist that she harbored homicidal thoughts toward her co-workers.

⁶ See, Rule 1120-10-.06(8), TENN. COMP. R. & REGS., *Rules of the Tennessee Department of Personnel*.

misconduct.⁷ “Gross misconduct” is defined as “Any job related⁸ conduct which may subject an employee to criminal prosecution.” Rule 1120-1-.01(42), TENN. COMP. R. & REGS, [emphasis added]. The Grievant's actions could have subjected her to criminal prosecution for both harassment and assault. Pursuant to T.C.A. § 39-17-308, “Harassment” occurs when a person “intentionally . . . places one (1) or more telephone calls . . . without a legitimate purpose of communication, and by this action knowingly annoys or alarms the recipient.” [emphasis added]. The Grievant may have committed this offense by calling Major Williams when she had no legitimate purpose to communicate with him, causing him annoyance with her revelation of his wife’s alleged infidelity, and alarm by making threats toward his wife. T.C.A. § 39-13-101(a) defines the offense of “Assault” in this state: “A person commits assault who . . . Intentionally or knowingly causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.” It could easily be determined that intentionally elbowing a supervisor at work fits this definition. The Grievant’s conduct was inconsistent and incompatible with the Agency’s mission and with her duties, functions and responsibilities as a PPO2. More importantly, because her conduct could subject her to criminal prosecution, the Grievant’s actions constitute “gross misconduct,” as alleged by the Agency.

7. The Agency also alleged that the Grievant violated the Board of Probation and Parole's Ethics Policy, which is designed to insure that “Agency employees abide by the highest standards of professional conduct.” That policy provides:

A. Standards of Conduct.

1. It is . . . intended that the public trust in the conduct of the Board and its employees be ensured by conduct being above reproach.

* * *

(b) Any conduct that would create a justifiable impression in the public mind that the public trust is being violated is prohibited.

Policy 202.01: Section VI, A. Standards of Conduct; Effective 05-20-03.

⁷ See, Rule 1120-10-.06(8), TENN. COMP. R. & REGS., *Rules of the Tennessee Department of Personnel*.

⁸ The phrase “job related conduct” does not require that the conduct take place at the workplace. When an employee engages in an “activity during non-duty hours . . . that is . . . inconsistent (and) incompatible . . . with his duties, functions and responsibilities” it interferes with the performance of the employee's job duties. *Travis v. City of Memphis Civil Service Commission*, 671 S.W.2d 849 (Tenn. App. 1984). By calling the husband of her former supervisor to discuss events involving co-workers, she engaged in “job related conduct.”

8. As an employee of the BOPP, a Probation and Parole Officer II, the Grievant was held to a high standard of conduct. The Ethics Policy clearly states "The Board has resolved to abide by and require agency employees to abide by the highest standards of professional conduct." It is imperative that the officer's conduct be above reproach. By directly confronting Major Williams and threatening his wife, her behavior was far from professional. Her job duties require her to interact with law enforcement officers and agencies on a daily basis. She is required to file warrants, prepare cases for hearings, and appear in Court, all of which require communication with law enforcement. Her actions severely damaged her own reputation with Memphis Police Department Major Williams and the law enforcement community, and conceivably damaged the Agency's relationship with law enforcement as well. Her behavior also impaired her ability to perform the functions of her job. As an agent of the Board, her conduct was a direct reflection on the Agency and its employees. The reputation and respect of the Agency in the community could only be diminished by her actions. Due to the nature of the Agency's mission, it is of the utmost importance that the relationship between the Grievant and local law enforcement agencies and personnel be one of trust and respect. The Grievant's actions jeopardized that relationship. Measured against the standard imposed by the BOPP's Ethics Policy, the Grievant's conduct is unacceptable.

9. The Agency has proven that the Grievant's actions were in violation of its Ethics Policy and the *Rules of the Tennessee Department of Personnel*, and that the Grievant's usefulness to the Agency was seriously impaired by her own conduct. The Agency could not return the Grievant to work in light of the recent physical assault on, and threats made to, her co-workers. When the Grievant failed to work successfully under one supervisor, she was moved to another office and given a new supervisor. The problems continued with the new supervisor to the point that the Agency sent a suspension letter to the Grievant.⁹ There was no guarantee, had the Agency returned the Grievant to her job under still another supervisor, that her threatening and abusive behavior would cease. That was a liability the Petitioner could not afford to assume; The Board of Probation and Parole has a duty to furnish its employees with a safe work environment,¹⁰ free from harassment and intimidation. When the Agency was informed of the

⁹ Although she claims not to have received that letter, she requested medical leave a week after it was mailed to her.

¹⁰ See, *Overton v. Norman*, 44 Tenn. App. 343, 349, 314 S.W.2d 47, 50 (1957), and *Hamilton v. Bean*, 745 F.2d 1034, 1036.

hostile and threatening behavior displayed by the Grievant,¹¹ it was placed on notice that the Grievant was a potential hazard to the safety of her co-workers. The Agency has a duty to take all threats seriously and to protect its employees from a known danger. When the Grievant exhibited aggressive behavior in the workplace, and leveled her threat toward Jacqueline Williams through Major Williams, she gave the Agency no choice but to initiate disciplinary proceedings.

10. A State employee may be disciplined for (1) causes relating to performance of duty, or (2) causes relating to conduct which may affect an employee's ability to successfully fulfill the requirements of the job. Rule 1120-10-.05, TENN. COMP. R. & REGS. "A career employee may be warned, suspended, demoted or dismissed by his appointing authority whenever just or legal cause exists. The degree and kind of action is at the discretion of the appointing authority. . . ." Rule 1120-10-.02, TENN. COMP. R. & REGS. Although the law prescribes implementation of progressive discipline for State employees, it also provides that disciplinary action must be administered at the step which is most appropriate for the misconduct. (*See*, T.C.A. § 8-30-330; and Rule 1120-10-.07, TENN. COMP. R. & REGS.) As the courts have recognized in other cases dealing with these provisions,

. . . the key word in the statute is 'appropriate.' . . . (T)he language of these provisions does not mandate application of discipline in a routine fashion without regard to the nature or severity of the behavior it is intended to address. The supervisor has discretion to determine what punishment fits the offense.

Berning v. State, 996 S.W.2d 828, 830 (Tenn. App. 1999).

11. The Grievant's previous acceptable behavior and job performance weigh in her favor. However, the disruptive and hostile nature and severity of her conduct during the last six-to-eight months of her employment, and the impact it had on the Grievant's supervisors, her co-workers, and the Agency, cannot be discounted. When the Board's Chairman considered the issue of punishment in this case, he had a wide range of options at his disposal. (*See*, Rule 1120-10-.07, TENN. COMP. R. & REGS.) Dismissal from employment is one of those options. Rule 1120-10-.07(5), TENN. COMP. R. & REGS. Pursuant to that regulation, "After minimum due process

¹¹ This included the Agency's later-acquired knowledge that the Grievant harbored homicidal thoughts toward her co-workers.

is provided, an employee may be dismissed by the appointing authority from his position for unacceptable conduct or performance of duties.” Rule 1120-10-.07(5)(a), TENN. COMP. R. & REGS. Without a doubt, the Grievant’s conduct was unacceptable, and warranted a significant sanction. The Grievant was employed as a Probation and Parole Officer II, a position that requires adherence to a high standard of conduct, and must command the respect and confidence of the members of the Board of Probation and Parole, her co-workers, the offenders supervised by her, and other members of the law enforcement community. “An appointing authority¹² may dismiss any employee in the authority’s division when the authority considers that the good of the service will be served thereby.” T.C.A. § 8-30-326. The egregious nature of the Grievant’s behavior, the apprehension that it instilled in the Grievant’s co-workers, the Board’s inherent loss of confidence in and respect for the Grievant’s judgment and reliability, and the negative impact of her conduct on the BOPP’s mission, all weigh heavily in favor of dismissal from employment as the appropriate sanction in this case, “for the good of the service.”

It must be conceded that the public payroll cannot be made a haven for those who with or without fault have become unable to perform the duties for which they were employed. It must likewise be conceded that "the good of the service" may in proper cases justify or require the discharge of public employees when their efficiency or usefulness in their positions has been seriously impaired by their own fault, by the fault of others, or by blameless misfortune.

Reece vs. Tennessee Civil Service Commission, 699 S.W.2d 808, 813 (Tenn. App. 1985)

12. In response to the case against her, the Grievant argued that the Agency could not lawfully terminate her employment because she is a “disabled person,” and is therefore entitled to the protections of the Tennessee Handicap Act (“THA”), T.C.A. § 8-50-103 *et seq.*, and the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101 *et seq.*¹³ Tennessee Courts look to the ADA and federal law for guidance when interpreting and implementing the THA. *Chandler v. Specialty Tires of America, Inc.*, 134 Fed. Appx. 921, 925 (6th Cir. 2005). Based on a review of those resources, it is concluded that the Grievant’s argument must be rejected:

¹² In this case, the appointing authority was the Chairman of the Board of Probations and Parole.

¹³ The Grievant claimed legal protections due to her mental condition. While she did not specify the source of this claimed protection, she cited several cases that, in turn, discussed the provisions of the THA and the ADA. It is, therefore presumed that these laws are the basis for her assertion.

12a. The Grievant claims that, due to her March 2005 diagnosis of “Adjustment Disorder,” she is disabled for the purposes of the ADA. Generally speaking, an Adjustment Disorder is an abnormal and excessive reaction to an identifiable life stressor. By its definition, this condition is short-lived, developing within three (3) months of the stressor onset, and usually resolving within six (6) months.¹⁴ In this case, the Grievant’s psychiatrist identified the triggering stressor as “job harassment,” based on information provided by the Grievant. However, nothing in the record supports a finding that the Grievant was harassed on the job. To the contrary, the record supports a conclusion that the Grievant was responsible for creating a stressful work environment for her supervisors by rejecting their efforts to supervise her work, and by her hostile, threatening and abusive actions. Although Dr. Augustus said that an accurate diagnosis and effective treatment plan depended on the Grievant’s truthfulness, her progress notes reveal the Grievant’s lack of candor and her failure to accurately relate to her doctor the events that were the subject of this hearing. Thus, through no fault of her treating professional, this deception on the part of the Grievant rendered Dr. Augustus’ opinions suspect and of questionable value to a resolution of this case.

12b. Even assuming the diagnosis of Adjustment Disorder is accurate, such a condition does not automatically qualify the Grievant as a “disabled individual.” “The determination of whether an individual has a disability is not necessarily based on the name or diagnosis of the impairment the person has . . .” 29 C.F.R. Pt. 1630, 1630.2(m). Also, temporary impairments, such as that suffered by the Grievant, are not generally considered disabilities.¹⁵ In this case, the Grievant’s psychiatrist diagnosed her condition on March 22, 2005; she certified that the Grievant was unable to work as of April 14, 2005; and she certified that she was able to return to work, only under a different supervisor, as of June 13, 2005. Thus, the Grievant was certified unable to work for a period of only two (2) months. As noted above, by its definition, an

¹⁴ See, generally, Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition.

¹⁵ See, 29 C.F.R. Pt. 1630.2(m); *Sussle v. Sirina Protection Systems Corp.*, 269 F. Supp. 285, 199 A.L.R. Fed. 797, S.D.N.Y. 2003 (Transitory impairment is not considered substantially limiting.); *Morales Pabon v. Morovis Community Health Center, Inc.*, 310 F. Supp. 2d 411, D. Puerto Rico 2004 (Employee’s depression and anxiety did not constitute a disability within the meaning of the ADA, as employee’s illness related to his depression and anxiety were temporary, and not permanent or long-term in nature.); *Sanders v. Arneson Products, Inc.*, 91 F. 3d 1351, Cert denied 117 S. Ct. 1247, 520 U.S. 1116, 137 L. Ed. 2d 329, C.A.9 (Cal.) 1996 (Employee’s temporary psychological impairment, which lasted for less than four months, was of insufficient duration to constitute disability under ADA.)

Adjustment Disorder is a temporary condition, and the Grievant's symptoms in this case resolved within a matter of a few months.

12c. Additionally, by the time the Agency issued its termination letter to the Grievant, she had already been certified by her psychiatrist as able to return to work, but not under her previous supervisor. In a case strikingly similar to the instant case, it was held that an employee's claim that she could return to work, but only under a different supervisor, precluded a finding that she was "disabled" by stress and related disorders that were allegedly caused by her workplace. In that case, the court reasoned that if she could do the same job for a different supervisor, she could still do her job, and would not qualify as a disabled individual, or "qualified individual with a disability" under the ADA. *Weiler v. Household Finance Corp.*, 101 F. 3d 519 C.A.7 (Ill.) 1996.

12d. In light of these considerations, it is concluded that the Grievant was not a disabled individual, as contemplated by the THA and ADA. In any event, her employment was terminated by the Agency, not because of any physical or mental impairment, but because the Agency determined that she had exhibited a pattern of unacceptable behavior that threatened the safety of its employees, and negatively impacted the Agency and its ability to perform its mission.¹⁶

13. The issues presented for consideration in this case are (1) whether the Agency has proven, by a preponderance of the evidence, that the Grievant engaged in conduct prohibited by the BOPP Ethics Policy and *The Rules of the Tennessee Department of Personnel*; and (2) if so, whether the disciplinary sanction imposed by the Board's Chairman was appropriate. With respect to both issues, the Agency has met its burden of proof.

¹⁶ See, generally, *Maddox v. University of Tennessee*, 62 F. 3d 843 (6th Cir. 1995).

Accordingly, IT IS HEREBY DETERMINED AND ORDERED that the Tennessee Board of Probation and Parole has met its burden of proof, and has established by a preponderance of the evidence that the Grievant, Shelia Williams, engaged in conduct prohibited by *The Rules of the Tennessee Department of Personnel*, and in violation of the Board of Probation and Parole Ethics Policy.

IT IS FURTHER DETERMINED AND ORDERED that the appropriate disciplinary sanction for her improper conduct is dismissal from State employment.

Entered and effective this 18th day of June, 2007.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 18th day of June, 2007.



Charles C. Sullivan, II, Director
Administrative Procedures Division