

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2006 CA 2466

AUDREY JONES

VERSUS

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS,
LOUISIANA CORRECTIONAL INSTITUTE FOR WOMEN

Judgment Rendered: SEP 14 2007

Appealed from the State Civil Service Commission
State of Louisiana
Docket Number 15804

James A. Smith, Chairman
Burl Cain, Vice-Chairman
David Duplantier, G. Lee Griffin, Rosa B. Jackson,
John McClure, and Chatham Reed

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BEFORE: PARRO, KUHN, AND DOWNING, JJ.

DISPOSITION: Affirmed

KUHN, J.

This is an appeal of a final decision rendered by the State Civil Service Commission (“Commission”) in which the disciplinary action against a classified state employee was upheld. For the reasons that follow, we affirm.

FACTUAL AND PROCEDURAL HISTORY

Audrey Jones was employed by the Department of Public Safety and Corrections, Louisiana Correctional Institute for Women (“LCIW”) for approximately sixteen years. During her tenure, she obtained the rank of Corrections Master Sergeant. On August 13, 2005, Master Sergeant Jones was assigned to serve as the Dorm Control Officer of the Leo Dormitory.

According to the Post Orders, the “Dorm Control Officer’s primary duty is management and control of inmate traffic within a dormitory.” Further, the Dorm Control Officer is charged with informing “the Compound Manager whenever there is or appears to be behavior problems among inmates that may require reinforcements.”

Typically, the Dorm Control Officer is required to stay within the dorm’s centrally-located Control Post. The Control Post is equipped to receive pager and intercom communications from officers patrolling the premises and has a telephone with which the Dorm Control Officer can alert supervisors of any problems. It is imperative that the Dorm Control Officer have another employee relieve her at the Control Post whenever she is required to leave the confines of the post to perform other necessary duties, such as inspecting the cellblocks and their respective exercise yards.

On the date in question, Master Sergeant Jones ordered another corrections officer to relieve her at the Control Post so that she could perform routine inspections. While inspecting one of the exercise yards,

Master Sergeant Jones encountered Sergeant Walker who was supervising Keisha Williams, a high-risk inmate known for violence towards staff members and other inmates. Because of Ms. Williams' high-risk status, she was not allowed to exercise with the general population but rather was required to exercise alone. Sergeant Walker informed Master Sergeant Jones that Ms. Williams was running around the yard and giving her problems. Accordingly, Master Sergeant Jones decided to terminate Ms. Williams' exercise period and gave her two or three direct orders to come in. Ms. Williams repeatedly refused to leave the exercise yard.

Rather than alerting the Control Post by pushing the intercom button located near the door to the exercise yard and remaining with Sergeant Walker to await assistance, Master Sergeant Jones chose to go back into the unit, leaving Sergeant Walker alone in the yard with the defiant inmate. She then walked back to the Control Post and personally called her supervisor, Captain Ennis, to request assistance. Following Master Sergeant Jones' departure from the yard, Ms. Williams began assaulting Sergeant Walker. Officers supervising inmates on an adjacent exercise yard became aware of the attack and left their respective posts to race to Sergeant Walker's aid. Ms. Williams also assaulted and injured one of these officers.

By letter dated September 23, 2005, Master Sergeant Jones was notified that in leaving Sergeant Walker alone, despite being aware of the problems presented by Ms. Williams, she had "violated Employee Rule #13g, Malfeasance, Aggravated, that states, 'Each Employee must perform his duties so as to fulfill the purpose and responsibilities of his assignment.'" Consequently, LCIW sanctioned Master Sergeant Jones by imposing a reduction in pay equal to a one-day suspension. She appealed the disciplinary action.

A hearing was subsequently held before a referee. LCIW argued that rather than returning to the control office to call Captain Ennis, Master Sergeant Jones should have activated the intercom button near the door to the exercise yard and remained with the inmate and Sergeant Walker until assistance arrived. Numerous LCIW officers testified that, notwithstanding their occupational knowledge and experience, simple common sense dictated that it was improper for Master Sergeant Jones to leave Sergeant Walker alone with a defiant, high-risk inmate in such a situation, and that they never would have done so. LCIW maintained that the fact that Master Sergeant Jones went back to the Control Post to call her supervisor for reinforcements demonstrates the impropriety of leaving Sergeant Walker alone. This was particularly so since Master Sergeant Jones easily could have activated the nearby intercom button and had the Control Post summon reinforcements while remaining present to assist Sergeant Walker in the interim.

Conversely, Master Sergeant Jones argued that there was no posted order that expressly required her to remain physically present in the exercise yard with Sergeant Walker. She further maintained that because she had not witnessed Ms. Williams acting violently, she acted well within her discretion in choosing to return to the Control Post to call Captain Ennis for assistance.

Ultimately, the referee sustained LCIW's disciplinary action. Thereafter, Master Sergeant Jones filed an application for review with the Commission challenging the referee's decision. The Commission denied the application and the referee's decision became the final decision of the Commission. The instant appeal followed.

DISCUSSION

In **Bannister v. Department of Streets**, 95-0404, p. 8 (La. 1/16/96), 666 So.2d 641, 647, our supreme court set forth the applicable standard of review as follows:

In civil service disciplinary cases, an appellate court is presented with a multifaceted review function. First, as in other civil matters, deference will be given to the factual conclusions of the Commission. Hence, in deciding whether to affirm the Commission's factual findings, a reviewing court should apply the clearly wrong or manifest error rule prescribed generally for appellate review....

Second, in evaluating the Commission's determination as to whether the disciplinary action is both based on legal cause and commensurate with the infraction, the court should not modify the Commission's order unless it is arbitrary, capricious, or characterized by abuse of discretion. "Arbitrary or capricious" means the absence of a rational basis for the action taken.

Employees with permanent status in the classified civil service may be disciplined only for cause expressed in writing. "Cause" for the dismissal of such a person includes conduct prejudicial to the public service involved or detrimental to its efficient operation. Stated differently, disciplinary action against a civil service employee will be deemed arbitrary and capricious unless there is a real and substantial relationship between the improper conduct and the "efficient operation" of the public service.

(Internal citations omitted.)

In the present appeal, the Commission's factual findings are not disputed. Rather, Master Sergeant Jones simply argues that, based upon the facts, the Commission erred in concluding that legal cause existed for LCIW's disciplinary action. In addressing the merits of her argument, the foregoing precepts dictate that we determine whether Master Sergeant Jones' conduct was prejudicial to LCIW's "efficient operation."

After a thorough review of the record, we are compelled to conclude that Master Sergeant Jones' conduct did impair the "efficient operation" of LCIW, thereby providing a rational basis for the discipline imposed upon

her. As a result of Master Sergeant Jones' actions, a correctional officer was isolated with a defiant, high-risk inmate and subsequently was attacked and injured. Moreover, other officers had to abandon their posts to render aid. While there may have been no written policy expressly addressing the particular factual situation presented herein, it was the overwhelming consensus of LCIW employees that an officer should not leave another officer alone with a defiant, high-risk inmate under these circumstances. Indeed, Master Sergeant Jones' statement that she did not feel the need to stay with Sergeant Walker is wholly incongruent with her determination that reinforcements were needed to aid Sergeant Walker. Thus, we conclude that the decision of the Commission in this disciplinary matter was neither arbitrary nor capricious and we decline to modify it.

CONCLUSION

For the foregoing reasons, the final decision of the State Civil Service Commission is affirmed. Appellant, Audrey Jones, is cast with all costs of this appeal.

AFFIRMED.