

**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

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In the Matter of: )  
)  
Alphonso Bryant ) OEA Matter No. 1601-0038-08AF15  
Darryl Love ) OEA Matter No. 1601-0034-08AF15  
Employee )  
) Date of Issuance: August 4, 2015  
v. )  
) Senior Administrative Judge  
Department of Corrections ) Joseph E. Lim, Esq.  
Agency )  
)  

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J. Michael Hannon, Esq., Employee Representative  
Rahsaan Dickerson, Esq., Agency Representative

**ADDENDUM DECISION ON ATTORNEY FEES**

**INTRODUCTION AND PROCEDURAL HISTORY**

On January 14, 2008, Alphonso Bryant and Darryl Love (“Employees”) filed an appeal with the Office of Employee Appeals (“OEA”) from Agency’s (“Department of Corrections” or “DOC”) final decision, effective December 17, 2007, removing them from their positions as Correctional Officers at the D.C. Jail for “negligence,” or “malfeasance.” Employees were accused of negligently allowing two prison inmates to escape. Employees deny doing anything improper, asserting that they followed standard operating procedures. After a hearing on December 8, 10, and 12, 2008, I issued an Initial Decision (“ID”) on June 22, 2009. I upheld Agency’s removal of Employees.

Employees timely appealed the ID to the Superior Court of the District of Columbia, where they submitted briefs on the matter on February 22, 2010. On March 22, 2011, Judge Mary Albrecht issued separate decisions for Bryant and Love holding similarly for each. In her Memorandum Opinion and Orders, she affirmed in part and remanded in part.<sup>1</sup> The Superior Court of the District of Columbia remanded the matter to OEA for reconsideration of the penalty of termination imposed by Agency.

Under a new Interim Director Thomas Hoey, Agency again found termination to be the appropriate penalty for Employees on June 30, 2011. Armed with Agency’s submission regarding reconsideration, I upheld Agency’s decision to terminate Employees on August 10,

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<sup>1</sup> See *Bryant v. OEA*, 2009 CA 006180, Mem. Op. and Order Affirming in Part and Remanding (D.C. Super. Ct. Mar. 22, 2011); *Love v. OEA*, 2009 CA 00618, Mem. Op. and Order Affirming in Part and Remanding (D.C. Super. Ct. Mar. 22, 2011).

2011.<sup>2</sup> Employees appealed again with the Superior Court under the previous case number and with the same judge. On August 2, 2012, Judge Abrecht again issued two separate opinions holding similarly against Employees.<sup>3</sup>

On December 15, 2011, the D.C. Council confirmed the appointment of Thomas Faust as the new director of DOC. Director Faust reinstated Employees to their former positions, but refused to pay back pay and attorney's fees.

On September 10, 2012, Employees appealed the Superior Court's decision to the District of Columbia Court of Appeals. On May 8, 2014, the Court of Appeals held that while OEA relied on substantial evidence to support Agency's finding of negligence, the terminations were arbitrary and capricious.<sup>4</sup> The Court of Appeals remanded the case to OEA for further proceedings consistent with its opinion.

On June 13, 2014, I ordered Agency to reconsider the penalties for Employees. On July 15, 2014, Agency reduced the penalty from termination to a four year suspension. On August 13, 2014, Employees appealed the four year suspension penalty to this Office. On November 4, 2014, I found the revised penalty to be arbitrary and capricious, and reduced them to thirty (30) day suspensions. Agency did not appeal, and on December 10, 2014, this Initial Decision became final.

On February 24, 2015, Employees submitted a motion for attorney fees in the amount of \$71,408.44. On May 27, 2015, Agency submitted its opposition to the fee petition. At this point, the parties began settlement discussions. On July 27, 2015, Employees submitted a signed letter indicating that parties have settled their attorney's fee issue. The record is closed.

### JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code Ann. § 1-606.03(a) (2001).

### ISSUE

Whether this matter should be dismissed.

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<sup>2</sup> *Employees v. Agency*, OEA Matter Nos.1601-0032-08R11 and 1601-0038-08R11 (August 10, 2011).

<sup>3</sup> See *Bryant v. OEA*, 2009 CA 006180, Mem. Op. and Order Affirming (D.C. Super. Ct. Aug. 2, 2012); *Love v. OEA*, 2009 CA 006181, Mem. Op. and Order Affirming (D.C. Super. Ct. Aug. 2, 2012).

<sup>4</sup> See *Bryant and Love v. District of Columbia Office of Employee Appeals*, 90 A.3d 412 (D.C. 2014).

ANALYSIS AND CONCLUSIONS

Since the parties have settled the matter, Employee's petition for appeal is dismissed.

ORDER

It is hereby ORDERED that the petition in this matter is dismissed.

FOR THE OFFICE:

JOSEPH E. LIM, ESQ.  
Senior Administrative Judge