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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
EMPLOYEE,	)	
Employee	)	OEA Matter No. 1601-0058-24
	)	
v.	)	Date of Issuance: September 28, 2026
	)	
DISTRICT OF COLUMBIA	)	
DEPARTMENT OF	)	
CORRECTIONS,	)	
Agency	)	Eric T. Robinson, Esq.
	)	Senior Administrative Judge
	)	
Andra Parker, Employee Representative		
Daniel Thaler, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On June 20, 2024, Employee filed a Petition for Appeal with the Office on Employee Appeals (“OEA” or the “Office”) contesting the District of Columbia Department of Corrections’ (“DOC” or the Agency”) action of removing her from service. By way of notice, on April 4, 2024, Agency issued an Advance Notice of Proposal to Remove Employee (Notice) from her position. The Notice charged Employee with (1) Conduct Prejudicial to the District Government—“Use of abusive, offensive, unprofessional, distracting, or otherwise unacceptable language, gestures, or other conduct; quarreling; creating a disturbance or disruption; or inappropriate horseplay” under 6-B DCMR § 1607.2(a)(16) and (2) Refusal to Follow Instructions—“Deliberate or malicious refusal to comply with rules, regulations, written procedures or proper supervisory instructions” under 6-B DCMR § 1607.2(d)(2). Thereafter, on June 4, 2024, Agency issued its Final Decision in this matter upholding the charges and set in motion Employee’s removal from service with an effective date of June 7, 2024.

On June 21, 2024, the OEA, under the auspices of its Executive Director, issued a notice to the DOC requiring it to submit an Answer to Employee's Petition for Appeal by July 21, 2024. On July 18, 2024, DOC timely filed its Answer in this matter. This matter was assigned to the Undersigned on July 18, 2024. On July 22, 2024, the Undersigned issued an Order Convening a Prehearing/Status Conference. The pendency of this matter was delayed multiple times due to either party requesting additional time to conduct discovery, press of other business, and health concerns. Eventually, it was determined that an Evidentiary Hearing ("EH") was required. With that, the EH was eventually held on April 22, 2025. The parties then submitted their respective written closing arguments. After reviewing the documentary and testimonial evidence in this matter, the Undersigned has determined that no further activities are warranted. The record is now closed.

JURISDICTION

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

BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:

That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 631.2 id. States:

For appeals filed under §604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

ISSUES

Whether the Agency's adverse action was taken for cause. If so, whether the penalty was appropriate, given the circumstances.

SUMMARY OF RELEVANT TESTIMONY

On April 22, 2025, an Evidentiary Hearing was held virtually before this Office through WebEx. The following represents a summary of the relevant testimony given during the hearing as provided in the transcript (hereinafter denoted as "Tr.") which was generated following the conclusion of proceedings. Both Employee and Agency presented testimonial and documentary evidence during the Evidentiary Hearing to support their positions.

Agency Case-In-Chief

Michelle Wilson (“Wilson”) Tr. pgs. 16-59

Wilson is the Deputy Director of Administration for the D.C. Department of Corrections. She has held this position first as an Interim then eventually full-time starting in 2021. She recognized Agency Exhibit No. 4 as an email from Ms. Angela Smith. According to this email, Ms. Smith held a meeting on January 25, 2024, and following said meeting, Employee threatened Ms. Smith as well as other members of DOC colleagues and management in its records office.¹ This office is tasked with maintaining inmate and resident records as part of their normal course of duty. Her initial response was to go to their location but after consulting with Kevin Hammond, it was decided that Mr. Hammond would investigate this situation. Upon review, it was decided that Employee would be placed on administrative leave while this situation was fully investigated.² Wilson identified Agency Exhibit No. 1 as a letter she authored proposing Employee’s removal from service. In making the determination to propose Employee’s removal, she reviewed, among other items, the Office of Investigative Services (“OIS”) Investigative Report³ which included OIS interviews and surveillance footage⁴. During this footage, Employee said to a colleague Ms., Neal, that she was going to call her girls and that they would have to see that “ass” outside. The person being referenced was Ms. Smith. Ms. Neal immediately reported this threat. The two charges levied against Employee stemmed from her threat against her colleague and her failure to follow the order of promptly leaving the premises.⁵ Wilson testified that she considered the *Douglas* Factors when she recommended Employee’s termination. Her consideration resulted in a majority of those factors being deemed aggravating.⁶

During cross examination, Wilson again referenced the surveillance video reiterating that it, along with eyewitness accounts, led her to believe that an argument ensued between Employee and Ms. Smith.⁷ Wilson also noted that Employee had previously been suspended for threatening a supervisor.⁸

Kevin L. Hammond (“Hammond”) Tr. pgs. 59 – 92

Hammond is the Chief of the Office of Investigative Services (“OIS”) for the District of Columbia Department of Corrections. He created the final report that was identified as Agency Exhibit No. 4. This document is a standard form report that is created when an investigation needs to be memorialized. In creating this report, Hammond interviewed the eyewitnesses and reviewed

¹ Tr. pgs. 17 – 19.

² *Id.* pgs. 20 – 21.

³ Agency Exhibit No. 1, attachment 3.

⁴ Agency Exhibit No. 9.

⁵ Tr. pgs. 31 – 33.

⁶ Tr. pgs., 35 – 39.

⁷ Tr. pgs. 45 – 56.

⁸ *Id.*

the surveillance footage.⁹ His investigation determined that on the date in question, Employee was insubordinate to Smith.¹⁰

Angela Smith ("Smith") Tr. pgs. 93 – 130

Smith is the DOC Correctional Program Administrator. She has held this position for approximately three years. In this role, Smith has oversight over the Inmate Records Office and her duties include, among other things, managing 5 – 6 MSS level supervisors. Prior to her removal, Smith supervised Employee's supervisor, placing Smith a few rungs above Employee in DOC's chain of command. Smith related that prior to the incident in question her relationship with Employee was collegial. She clarified that they did not socialize outside of the office nor was Employee treated differently than any other subordinate.¹¹ On the date in question, Smith conducted an office meeting where she informed the collected staff that the DOC was in the beginning stages of implementing a realignment. During this meeting, Employee got up from her desk and physically positioned herself much closer to Smith and the tenor of the meeting degraded from there, to the point that Smith felt "disrespected."¹² After the meeting, Smith debriefed with some of the other members of her group during which, Ms. Neal, joined and stated that Employee told her the following:

... And then after that, Ms. Neal said well, while I'm in here, I need to tell you all something. And so we were, like, okay. And then he said, [Employee] was just by my desk and she said to me that's okay. You know, this afternoon I'm going to have me and my daughters, you know, whoop that ass, something to that effect. Excuse my language.

Q: When Ms. Neal reported this to you, how did you feel?

A: I want to say I was scared. But you don't know what people will do in this day and time. You don't know what people are thinking mentally. And so I was, like, shocked. I'm, like, well, where did all of this come from?...¹³

Mr. Lee and Mr. Portillo were present for this revelation. Ms. Neal was instructed to write DC-1 detailing her account. Smith then emailed her supervisor about the incident and felt threatened. During cross examination, while being questioned regarding the surveillance video of the staff meeting, Smith confirmed that Employee caused a disturbance to the point that she was asked to leave and go to the training room and continue with the work assignments she had been

⁹ Tr. pgs. 60 – 63.

¹⁰ Tr. pgs. 67 – 77.

¹¹ Tr. pgs. 95 – 97.

¹² Tr. pgs. 100 – 104.

¹³ Tr. pg. 106.

working on prior to the meeting. Smith confirmed that her noting that Employee caused a disturbance was from her first-hand account of the incident.¹⁴

Alberta Lee ("Lee") Tr. pgs. 130 – 146

Lee is a Correctional Program Officer in the DOC's record office. Lee has been with DOC for approximately 17.5 years. Lee was in the office debriefing along with Smith and Mr. Portillo when Ms. Neal disclosed that Employee told her that she was going to "get her girls to come up and tap that ass."¹⁵

Lisa Neal ("Neal") Tr. pgs. 147 – 169

Neal has worked with DOC as a Legal Instruments Examiner for approximately two years. Neal notes that her working relationship with Employee was collegial, however, she did not interact with Employee outside of work. Neal testified regarding Agency Exhibit No. 4, which was DCDC-1 that she submitted regarding the incident in question. The following excerpt from her testimony is pertinent to this matter:

... [Employee] got coffee or was making coffee, and she came and stood on the other side of my desk and was just standing there. And I kind of like glanced up at her, and she didn't say anything. And so I continued to work. A few minutes later, she was still standing there. And so I kind of just sat back in the chair because I was trying to figure out what was going on. And then she just said, yeah, I think that's what I'm going to do. I'm going to have my girls and we're going to beat that ass. And I said to her, why would you say that in front of me? Simultaneously, that's when I was called into the office by Ms. Lee. Like, as soon as that happened, I was called into the office by Ms. Lee -- into Mrs. Smith's office, not Ms. Lee.

Q: And what happened when you went into Ms. Smith's office?

A: I went into Ms. Smith's office and she -- she apologized to me. She said, I wanted to bring you into the office along with the supervisors and the CPO to apologize to you for you being a newer member of the team, having to experience what we just went through in that meeting. And she was, like, you know, this is not typical of us. This is not what we intended to happen, but it did. So I just wanted to apologize to you for that. And I said to her, well, Ms. Smith, since you called me in here, let me tell you what I just experienced. And I relayed everything to her. And then she said, okay, well, I need you to do a DCDC-1 stating the events that happened. And I said, okay, no problem.

Q: And when you say that you relayed everything to Ms. Smith, did you relay to Ms. Smith that quote that [Employee] has said to you about informing her

¹⁴ Tr. pgs. 120 – 129.

¹⁵ Tr. pg. 136.

girls and –

A: Yes, yes, I did.

Q: And why did you relay that statement to Ms. Smith?

A: Because to me, that was a threat that something was going to happen to her. And I would've felt horribly if this lady would've left work and went outside and been attacked and I knew that the statement was made and didn't say anything.¹⁶

Neal confirmed that her account in her DCDC-1 was accurate, particularly the perceived threat that Employee lodged against Smith. Neal further elaborated that she was unaware of any other tension that may have been simmering in the office regarding Employee.

Angela Dupar (“Dupar”) Tr. pgs. 169 – 178

Dupar has been a Lead Legal Instrument Examiner with DOC since 2006. Dupar recognized Agency Exhibit No. 4 as containing the DCDC-1 that she authored detailing her account of the incident in question. In this account, she recalled the disturbance Employee made during the staff-wide meeting during which Smith repeatedly asked Employee to leave the meeting several times before she eventually complied.

Kevin Lewis (“Lewis”) Tr. pgs. 179 - 194

Lewis is a Lead Legal Instrument Examiner and has been with DOC for approximately 25 years. He created a DCDC-1 detailing Employee’s actions during the staff wide meeting during which Employee had a back and forth dialogue with Smith. However, Lewis clarified that from his vantage point he could not see, only hear, the dialogue between the two.

Marbin Portillo (“Portillo”) Tr. pgs. 193 – 205

Portillo is a Supervisory Legal Instruments Examiner with DOC. Portillo confirmed that Agency Exhibit No. 4 contained his DCDC-1 that he submitted to detail his account of what happened during the staff wide meeting in question. According to Portillo, Employee tried to leave the staff wide meeting early when Smith then instructed Employee to not be disrespectful. He then recounted that smaller meeting in Smith’s office during which Neal disclosed that Employee had said that she was going to get her “girls to handle this for her.”¹⁷

Employee Tr. pgs. 205 – 250

Employee recounted her viewpoint of the staff-wide meeting during which realignment concerns were addressed by Smith. While she recounted a discussion she had with Smith during

¹⁶ Tr. Pgs. 154 – 156.

¹⁷ Tr. pg. 199.

this meeting, she denied being disrespectful towards her. Employee also noted that she only used Smith's first name because she asserts that Smith was first to use Employee's first name. Employee was shocked that she was charged in the manner that she was for the incident in question.¹⁸ Employee also felt that she was not disrespectful toward Smith during the meeting and attributed this notion of disrespect due to her asking multiple questions during the staff wide meeting. Employee described Smith as a "bully."¹⁹ Employee further believes that those in her chain of command "conspired" to create the instant allegation and resulting removal action.²⁰ The following excerpt of Employee's cross examination is pertinent to this matter.

Q: Okay, so you do not believe that your supervisors conspired against you in this matter?

A: I don't know. I can't answer that.

Q: And Ms. Neal is not a supervisor. Isn't that right?

A: No, she's not.

Q: And you are aware that it was Ms. Neal who reported that you stated to her that something to the effect of calling your girls and having them take action?

A: I didn't tell Ms. Neal that. I don't know why she would say that. But I didn't tell her that.²¹

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW

The following findings of fact, analysis, and conclusions of law are based on the testimonial and documentary evidence presented by the parties during the course of Employee's appeal process with OEA.

Title 1, Chapter 6, Subchapter VI of the D.C. Official Code (2001), a portion of the Comprehensive Merit Personnel Act, sets forth the law governing this Office. D.C. Official Code § 1-606.03 reads in pertinent part as follows:

(a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to subchapter XIII-A of this chapter), *an adverse action for cause that results in removal*, reduction in force (pursuant to subchapter XXIV of this chapter), reduction in grade, placement on enforced leave, or suspension for 10 days or more (pursuant to subchapter XVI-A of this chapter) to the Office

¹⁸ Tr. pg. 224.

¹⁹ Tr. pg. 227.

²⁰ Tr. pgs. 228 – 231.

²¹ Tr. pg. 244.

upon the record and pursuant to other rules and regulations which the Office may issue. (*Emphasis added*).

Employee was charged with (1) Conduct Prejudicial to the District Government—“Use of abusive, offensive, unprofessional, distracting, or otherwise unacceptable language, gestures, or other conduct; quarreling; creating a disturbance or disruption; or inappropriate horseplay” under 6-B DCMR § 1607.2(a)(16) and (2) Refusal to Follow Instructions—“Deliberate or malicious refusal to comply with rules, regulations, written procedures or proper supervisory instructions” under 6-B DCMR § 1607.2(d)(2). In a nutshell, DOC asserts that during a staff-wide meeting conducted by Smith regarding a possible realignment within the Records office, that Employee was openly insubordinate and disrespectful towards Smith. This allegation was exhibited by the tone and tenor of Employee’s exchange with Smith during this meeting and her initial refusal to follow Smith’s order of returning to her temporary workstation so that she could finish the task that she had been assigned. Smith had to repeat this order several times before Employee eventually complied. According to DOC, this exchange was heated and was on full display for the DOC Records Office staff. Exacerbating this conduct was the more serious allegation that after the staff-wide meeting, Employee confided with her colleague, Neal, a threat to do bodily harm to Smith in an out-of-office encounter. Neal, taking this threat seriously, immediately reported what happened to Smith and a small coterie of DOC management that had gathered to debrief after the staff-wide meeting. Not knowing if the alleged threat was something that she truly intended to carry out, Employee was immediately placed on leave and ordered to leave the premises. While assessing the appropriate penalty for Employee’s action, it was noted that Employee had been sanctioned with suspension without pay within the prior three years for verbally threatening another colleague.

Employee, for her part, denies that she was rude, insubordinate, or that she vocalized the threat as indicated by Neal. She describes her staff-wide interaction as just asking questions about a precarious workplace development that did not include a comprehensive explanation surrounding it. Employee characterized her verbal exchange with Smith as one where the situation was conflated to fit a false narrative that would support her termination. Employee further asserts that this removal action is in response to EEOC Discrimination complaints Employee filed against Smith and Lee in 2022 and 2023.²² Also, Employee denies making the threat that was reported by Neal.

In justifying its adverse action in this matter, DOC presented testimony from several eyewitnesses and participants including Smith, Neal, Wilson, Hammond, Lee, Lewis, Portillo and Dupar. The comprehensive rendition of events provided by Agency’s witnesses is firmly in line with the allegations that were a part of the Final Decision that resulted in Employee’s termination. Most notably, the surveillance footage of the staff-wide meeting was referred to and then consistently corroborated by participant and eyewitness testimony regarding Employee’s rude behavior towards Smith that was on display during this meeting. I also find that Neal’s account of the threat Employee made against Smith is credible and consistent with the collective testimony and evidence that was presented. Moreover, I find that the collective testimony presented by all the Agency’s witnesses was consistent and credible. In stark contrast, I find that Employee’s

²² Employee Closing Argument pg. 1 (October 8, 2025).

testimony was, at best, self-serving. Employee had verbally threatened another colleague in the past. This deleterious conduct is something that DOC has already documented and sanctioned. Regrettably, Employee did not heed the warning provided by her prior suspension for similar conduct. This act, either singularly, or in repeat fashion, cannot be tolerated in any District government workplace setting. Despite Employee's protestation to the contrary and given the instant circumstances, I find that Employee's removal was the only appropriate recourse left for DOC management.

Given the gravity of the conduct and the proper procedural safeguards of due process that Agency undertook, I find that Agency proved by a preponderance of the evidence that it had cause to remove Employee from service. Although the OEA has a "marginally greater latitude of review" than a court, it may not substitute its judgment for that of the agency in deciding whether a particular penalty is appropriate.²³ The "primary discretion" in selecting a penalty "has been entrusted to agency management, not to the OEA."²⁴ Selection of an appropriate penalty must involve a responsible balancing of the relevant factors in the individual case. OEA's role in this process is not to insist that the balance be struck precisely where the OEA would choose to strike it if the OEA were in DOC's shoes in the first instance; such an approach would fail to accord proper deference to the Agency's primary discretion in managing its workforce. Rather, the OEA's review of an agency-imposed penalty is essentially to ensure that DOC conscientiously considered the relevant factors and did strike a responsible balance within tolerable limits of reasonableness. Only if the OEA finds that the agency failed to weigh the relevant factors, or that DOC's judgment clearly exceeded the limits of reasonableness, is it appropriate for the OEA then to specify how the DOC's decision should be corrected to bring the penalty within the parameters of reasonableness.²⁵ I find that the evidence did not establish that the penalty of termination constituted an abuse of discretion.²⁶ I conclude that the Agency has met its burden of proof in this matter and that Employee's termination should be sustained.

ORDER

Based on the foregoing, it is ORDERED that the Agency's action of REMOVING Employee from service is hereby UPHELD.

FOR THE OFFICE:

/s/ Eric T. Robinson

ERIC T. ROBINSON, ESQ.
SENIOR ADMINISTRATIVE JUDGE

²³ See, *Douglas v. Veterans Administration*, 5 MSPB 313, 328, 5 M.S.P.G.R. 280, 301(1981)(Federal Merit Protection Board case); *Raphael* 740 A. 2d 945.

²⁴ *Id.*

²⁵ *Raphel* 740 A. 2d at 945.

²⁶ Although I may not discuss every aspect of the evidence in the analysis of this case, I have carefully considered the entire record. See *Antelope Coal Co./Rio Tino Energy America v. Goodin*, 743 F.3d 1331, 1350 (10th Cir. 2014) (citing *Clifton v. Chater*, 79 F.3d 1007, 1009-10 (10th Cir. 1996)) ("The record must demonstrate that the ALJ considered all of the evidence, but an ALJ is not required to discuss every piece of evidence").