

IN THE CITY OF ATLANTA  
CIVIL SERVICE BOARD

**Appeal No.: 2019-013AP**

Effective Date: March 20, 2019

Hearing Date: December 5, 2019

Appellant: Dennis Montgomery  
Department of Watershed Management (DWM)

HEARING OFFICERS:  
Mary Ann Phyll, Chair,  
Robert Hawkins  
S. Ralph Martin, Jr., DWB

Action: Dismissal

**APPEARANCES**

City of Atlanta:  
Beth Taylor, Esq.  
Valerie Godfrey, paralegal

City of Atlanta Witnesses:  
Janine Williams, City of Atlanta  
Human Resource Manager, (DWM)  
Kimberly Peek, City, Wastewater,  
DWM, Director  
Commissioner Keisha Powell, DWM

Appellant Representative:

Mr. Kyle Jones  
Latrese Johnson, City, Area  
Superintendent, DWM

Observers: Shalanda Miller, Esq., City Attorney's Office

STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code ("Code"), a hearing in the above referenced case was held before the above named hearing officers of the Atlanta Civil Service Board ("Board") on the date set forth above in Conference Room 2174 of the City Hall Tower located at 68 Mitchell Street, SW, Atlanta, Georgia 30303.

## EXHIBITS

### City's Exhibits:

- C-1 Notice of Proposed Adverse Action
- C-2 Notice of Final Adverse Action
- C-3 "Letter of Jury Summons"
- C-4 Coaching Letter
- C-5 Record of Oral Admonishment
- C-6 Reprimand
- C-7 Memorandum to Appellant
- C-8 Letter, Re: jury attendance
- C-9 Atlanta City Code Ordinance, Section 114-528, et seq.
- C-10 Not applicable
- C-11 Employee Maintenance Turnaround Document (TAD)
- C-12 Reprimand, excessive absenteeism
- C-13 Notice of Final Adverse Action (another case)
- C-14 Reprimand

### Appellant's Exhibits:

- A-1 Department of Watershed Management, Table of Disciplinary Action
- A-2 Atlanta City Code, sections 114-526-114-528

Stipulations: None

## VIOLATION

Atlanta City Code, section 114-528 (b)(12) (Willful making false statements to the public, supervisors, officials, board, department heads or agencies or the willful making false statements on an application within the city).

## CHARGES

See Notice of Final Adverse Action, Exhibit C-2.

## FINDINGS OF FACT

1. The Department of Watershed Management (DWM) is responsible for the drinking and wastewater systems and services for the City of Atlanta (City) and the metropolitan area.
2. The Appellant was employed with DWM as a Watershed Construction Maintenance Worker.
3. On January 30, 2019, Appellant submitted a letter to the Human Resources Manager, Janine Williams. Exhibit C-3.
4. Prior to that proffer, on January 14, 2019, Appellant called in to his supervisor and said he had jury duty. He was asked to bring in the jury notice as proof of his attendance and jury service.
5. The letter presented by Appellant as proof of jury service had typed in “ January 14, 2019, Superior Court of Fulton County, Office of Jury Clerk, 185 Central Avenue, SW, Atlanta, GA 30303 – [infojuryjuryservice@fultoncountyga.gov](mailto:infojuryjuryservice@fultoncountyga.gov). To Whom It May Concern: Please be advised that Dennis Montgomery, Jr. had Jury Duty on January 14, 2019. Sincerely, Clerk of Court.”
6. On January 31, 2019, Appellant was given a Memorandum by the Human Resource Manager, requesting additional documentation to validate that he served Jury Duty Time.
7. The Appellant failed to respond by the close of business on February 4, 2019, as requested, with any additional documentation.
8. Consequently, the alleged jury service was not validated.
9. Not being validated, the letter was declared false, null and void.
10. In response to Human Resource’s request, a clerk of the office of the Jury Clerk, Fulton Superior Court responded, “We were unable to verify that the named candidate reported for jury duty during the 2019 calendar year. Exhibit C-8.
11. The Appellant failed to provide any jury summons or other evidence that he was to serve on the jury.
12. Appellant has been disciplined innumerable times over his period of employment for excessive tardiness and absenteeism and was terminated once for those offenses as an intern April 28, 2014, and apparently, returned to employment some time thereafter.

## DISCUSSION AND OPINION

Atlanta City Code, section 114-528 (b)(12) states as follows:

114-528(b)(12) Willful making of false statements to the public, supervisors, officials, Boards, department heads or agencies or the willful making of false statements on an Employment application within the city (is violation of subsection).” The issue before the Board is whether the DWM had sufficient reason to dismiss Appellant for his violation of section 114-528(b)(12), and for other cause.

The document provided by the Appellant was not a true validation of any jury service. The document is, therefore, false or fake. Further buttressing the latter is the response from the Fulton County Superior Court jury clerk that there was no record of Appellant engaging in jury service.

The net effect of Appellant intentional failure is willfully making false statements to his supervisors, public, officials, boards, and department heads or agencies, in clear violation of 114-528(b)(12).

Under 114-528 (b), the conduct perpetrated by the Appellant constitute cause which disciplinary action may be imposed, including dismissal.

The Appellant argues that under the DWM’s Table of Disciplinary Action (Exhibit A-1), dismissal is too harsh a punishment and not in accord with progressive disciplinary system. The Table, however, prescribes 10- days suspension or dismissal for willful making false statements to the public, supervisors, commissioner, officials or agencies.

In addition, under section 114-527 (2)(b) (Progressive discipline), the reasonable disciplinary action shall be determined by considering relevant factors, including but not limited to the seriousness of the offense, whether the offense was willful and deliberate, unintentional or the result of gross negligence and the employee’s record of performance and conduct.

Considering the factors stated in 114-527, not only did Appellant engage in a willful deliberate act of deception, but also had a history of excessive tardiness and absenteeism.

In Exhibit C-4, as testified to by Latrese Johnson, the Coaching Letter noted the dates of October 3,9,11,12,22,24,25,26,30,31, 2018 for tardiness committed by Appellant.

Exhibit C-5, Record of Oral Admonishment, December 7, 2018, warned Appellant for developing a pattern of being absent from work.

Exhibit C-6, Appellant is reprimanded for failing to “come to work,” dated January 31, 2019.

In an HR Employee Maintenance Turnaround Document (TAD), Exhibit C-11, Appellant was terminated, effective April 24, 2014, for excessive tardiness and absenteeism as an intern. Effective dates of internship 5/26/2011-4/24/2014.

Exhibit C-12, Reprimand, “reportedly calling in” to use sick, vacation, or emergency leave without authorization. Effective dates May 5, 10,11,17,19,24,25,26,30 and 31, 2017, and June 9,2017.

November 8, 2017, NOFAA, suspension, overuse of sick, annual, or emergency leave, at times without proper authorization, Exhibit C-13. See also Exhibit C-14, reprimands for similar conduct as in previous disciplines.

The Board panel concludes that the willful making of false statements plus Appellant’s previous history of extensive disciplinary action, justify the DWM’S dismissal.

#### ORDER

Based upon the evidence and testimony presented, therefore, the appeal of Dennis Montgomery is denied, and the Notice of Final Adverse Action is affirmed and sustained.

This the 7<sup>th</sup> day of January 2020.

Signed:

Mary Ann Phyll

Mary Ann Phyll, Chair

Robert Hawkins

Robert Hawkins

S. Ralph Martin

S. Ralph Martin, Jr., DWB