STATE OF NORTH CAROLINA	IN THE OFFICE OF ADMINISTRATIVE HEARINGS
CUMBERLAND COUNTY	FILE NO: 13-OSP-18480

PATRICK E. HOLMES, Petitioner,	)	
v.	)	FINAL DECISION
FAYETTEVILLE STATE UNIVERSITY, Respondent.	)	

This contested case was heard before the Honorable Donald W. Overby, Administrative Law Judge, on March 25-26, 2014 in Cumberland County, North Carolina.

APPEARANCES:

For Petitioner:
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ISSUES:

Petitioner submits the following as issues to be resolved in this action:

I. Whether Respondent showed by a preponderance of the evidence that it had just cause to terminate Petitioner's employment for having engaged in unacceptable personal conduct under N.C. Gen. Stat. § 126-35 and 25 N.C.A.C. 1J.0604, *et seq*.

II. In the event that just cause for termination is not found, what is the appropriate remedy for Petitioner as provided in law under N.C. Gen. Stat., Ch. 126 and N.C. Admin. Code, Ch. 25, *et seq.*

EXHIBITS:

Respondent offered the following exhibits, which were entered into evidence:

Exhibit	Description	Date
1	Notice of Pre-Disciplinary Conference	5/23/13
2	Recommendation for Termination	5/29/13
3	Grievance Decision	6/30/13
4	Communications Supervisor Position	4/8/13
5	Performance Management Work Plan for SPA Employee	10/30/12
6	Oath-Law Enforcement Officer	4/2/12
7	FSU Police Department- Conduct Policy	7/20/93
12	Confidentiality Statement and Code of Ethics	

Petitioner offered the following exhibits, which were entered into evidence:

Exhibit	Description	Date
1	Affidavit of Separation of Law Enforcement Officer ("F-5b")	6/20/13
2	Webster's Definition of "Rumor" (by official notice)	10th Ed.

WITNESSES:

Respondent called the following witnesses:

1. Chief Robert Hassell
2. Officer Vernon Singletary
3. Sergeant Luis Cruz
4. Communicator Thelma Catchings
5. Benjamin Simmons

Petitioner called the following witnesses:

1. Mary Wesley
2. Sergeant Johnny Jarmon
3. Lieutenant Michael Murphy
4. Major Raymond W. Isley (SHP ret.)
5. Patrick Holmes

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, documents received and admitted into evidence, and the entire record in this proceeding, the undersigned Administrative Law Judge has weighed all the evidence, or the lack thereof, and has assessed the credibility of the witnesses by taking into account the appropriate facts for judging credibility, including but not limited to the demeanor of the witness; any interests, biases, and/or prejudices that any witness may have; the opportunity of the witness to see, hear, know, and remember the facts or occurrences about which the witness has testified; whether the testimony of the witness is reasonable; and whether the testimony is consistent with all other believable evidence in the case. From the sworn testimony and admitted evidence, or the lack thereof, the undersigned Administrative Law Judge makes the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. The Office of Administrative Hearings has personal and subject matter jurisdiction over this contested case pursuant to Chapters 126 and 150B of the North Carolina General Statutes.

2. Respondent Fayetteville State University ("FSU" or "the University") is subject to Chapter 126 and was Petitioner's employer.

3. Petitioner Patrick Holmes was a permanent State employee subject to Chapter 126 of the North Carolina General Statutes.

4. From September 2003 to May 29, 2013, Petitioner Patrick E. Holmes ("Petitioner") was continuously employed by the State of North Carolina and assigned to permanent positions within state government.

5. From September 2003 to around April 1, 2012, Petitioner was employed as a trooper by the North Carolina State Highway Patrol. Petitioner served with distinction while employed by the North Carolina State Highway Patrol.

6. From around April 1, 2012 to May 29, 2013, Petitioner was employed with Respondent as Public Safety Supervisor – Patrol Lieutenant with the University's Department of Police and Public Safety for just over one year until he was dismissed from his position due to unacceptable personal conduct. **(Resp. Exs. 2, 5)**

7. At all times during the relevant time period, Petitioner reported directly to Robert Hassell, Chief and Associate Vice Chancellor of Police & Public Safety, and was a member of the Chief's command staff. (**Resp. Ex. 5)**

8. As a Lieutenant and a member of the command staff, Petitioner was responsible for supervising other employees within the Department. Supervisors in the Department of Police & Public Safety were held to high standards and were expected to conduct themselves in accordance with the highest ethical standards.

9. As a Lieutenant and Patrol Commander, Petitioner was "expected to ensure that all department personnel enforce all applicable local, University, state, and federal laws and statutes." (**Resp. Ex. 5**) Petitioner was also responsible for setting "an example for all

subordinates and University Police personnel in carrying out duties, maintaining ethical standards and performing enforcement and investigative duties." (Id.)

10. The University Police Department had a set of Rules and Regulations that governed the conduct of their law enforcement officers. These Rules were intended "[t]o establish the parameters of conduct for which one is directly answerable to the Department," and "[t]o establish the specific rules of conduct to be followed by every employee of the Department." (**Resp. Ex. 7**) The Rules contained a Code of Ethics and outlined specific conduct expected of officers regarding their truthfulness.

11. On or about April 8, 2013, Chief Robert Hassell was informed that an employee within his department, Ms. LaDonna Glover, intended to file an employee grievance with the University's Human Resources regarding the interviewing and hiring process used by the University to fill the Communications Supervisor Position. (**Resp. Ex. 4**) Ms. Glover alleged that the "hiring board was unethical and bias" in part because the Petitioner had served on the board and was having an inappropriate relationship with Ms. Mary Wesley, a candidate who had been interviewed by the board and recommended for the same position sought by Ms. Glover. (**Resp. Ex. 4**)

12. Ms. Glover did not raise any issue with the composition of the interviewing committee until after she was made aware that Ms. Wesley was being recommended for the position. Approximately two weeks had passed since the interviews had been conducted.

13. The University has a Code of Ethics that governs the conduct of individuals who serve on hiring committees for the University. (**Resp. Ex. 12**) Pursuant to the University's Code of Ethics, individuals who serve on hiring committees for the University must promptly disclose to the Chairperson of the hiring committee "any appearance of a relationship between [the individual] and a prospect or candidate." (Id.)

14. The University's Code of Ethics for those serving on the search committee is not a properly promulgated rule, nor formally adopted policy. It is a written document which each member of the search committee signs agreeing to the terms therein.

15. There is no evidence that any relationship existed between Petitioner and Ms. Wesley. It is perfectly reasonable for Petitioner to have no perception that there was an "appearance of a relationship."

16. Chief Hassell, along with Mr. James Mercer, Director of Emergency Management at the University and Ms. Glover's immediate supervisor, met with Ms. Glover to discuss her grievance. During this meeting Ms. Glover provided Chief Hassell with a list of names of employees who could verify and confirm her allegations.

17. Prior to Ms. Glover's complaint, Chief Hassell had not personally heard of any rumors concerning Petitioner and Ms. Wesley or anyone else.

18. Mr. Mercer was also on the interviewing committee with Petitioner and one other. Mr. Mercer acted in a lead capacity for the interviews.

19. As a result of Ms. Glover filing a grievance with Human Resources, Chief Hassell began investigating her claims; notably, whether Petitioner was involved in a relationship with Ms. Wesley. The University does not have a policy against relationships between employees; however, if Petition was involved with Ms. Wesley it would not have been appropriate for him to serve on the hiring committee for the telecommunications position. Even the appearance of a relationship between the two would have created a conflict of interest.

20. There is no evidence to support a contention that Petitioner and Amy Wesley ever had any sexual contact or intimate relationship. It is a strange paradox that the University policy makes being untruthful about knowledge of the existence of a rumor of a relationship an offense worthy of termination, but has no sanction if in fact there is an extramarital relationship.

21. The University policy, Policy Number 203 entitled "Conduct," is designed to cut down on rumor-mongering among the officers of the department that might besmirch or demean an officer or the department in general. The policy states that if the facts expressed in the "rumor" are untruthful, then the person spreading the rumor may be punished. (**Resp. Ex. 7**)

22. At no time during Chief Hassell's internal investigation were Glover's allegations against Petitioner and Wesley ever substantiated. After the internal investigation, Chief Hassell admitted that he found no merit to Glover's employment complaint against Petitioner. (P-1)

23. Chief Hassell interviewed several employees including Police Officer Vernon Singletary, Sergeant Luis Cruz, Property Officer Mitchell McKellar, and Communicator Thelma Catchings. Chief Hassell also interviewed Petitioner by telephone on several different occasions. (**Resp. Ex. 1**)

24. On or about April 18, 2013, Chief Hassell called Petitioner on the telephone to ask him questions concerning Glover's grievance. Chief Hassell asked Petitioner whether he was aware that Glover had filed an employee grievance for not having been selected for the head dispatcher position. Petitioner responded that he had heard that Glover filed an employee grievance.

25. Chief Hassell understood Petitioner's answer to have been that he was aware of rumors concerning a relationship between Petitioner and Ms. Wesley. There was an apparent misunderstanding between the two in the initial telephone conversation concerning the topic of the rumors.

26. Around April 23, 2013, in a second telephone call, Chief Hassell called Petitioner to again ask questions regarding Glover's grievance. There is no question that in this call Chief Hassell asked Petitioner whether he recalled hearing any "rumors" that Petitioner and Amy Wesley were having an intimate relationship. Petitioner responded to Chief Hassell that he was not aware of any rumors that he and Ms. Wesley were having an intimate relationship.

27. Chief Hassell interviewed Property Officer McKellar, who informed the Chief that he had confronted Petitioner about serving on the hiring committee because McKellar was under the impression Petitioner was involved in a relationship with one of the candidates.

28. The conversation between McKellar and Petitioner was during the middle of the interviews. McKellar commented that the interviews explained why he had seen Ms. Wesley around their area on that particular day. Petitioner denied any relationship existed in the conversation with McKellar.

29. Following his conversation with McKellar, Chief Hassell again asked Petitioner whether he had heard any rumors or allegations regarding him being in a relationship with Ms. Wesley. Again Petitioner said he had not heard any allegations or rumors. Chief Hassell then asked Petitioner specifically about the conversation he had with McKellar, and Petitioner acknowledged that the conversation had occurred.

30. McKellar did not testify in this contested case hearing.

31. Communicator Thelma Catchings testified that she had spoken to Petitioner several months prior to his dismissal regarding her perception that he was having a relationship with Ms. Wesley. She stated that she warned Petitioner of the possible ramifications of his behavior and said Petitioner became upset during the conversation. Catchings testified that it appeared to her that the two were having a relationship.

32. Following his interview of Catchings, Chief Hassell again asked Petitioner if he had heard any rumors or allegations regarding him being in a relationship with Ms. Wesley. Once again Petitioner denied having heard anything. When Chief Hassell provided details of the conversation with Catchings, Petitioner stated he did not recall such a conversation. However, when Chief Hassell reminded Petitioner of the identity of the individual with whom he had the conversation, i.e. Catchings, Petitioner remembered the conversation.

33. There is credible evidence that the conversation between Catchings and Petitioner was as much as a year before the investigation.

34. Petitioner testified at the hearing and denied being untruthful to Chief Hassell during the investigation. Petitioner testified that he did not initially recall the conversations with McKellar and Catchings, but did remember them after being prompted by the Chief. Petitioner stated that he did not pay any attention to the remarks made by McKellar and thought they had been made in jest. With regard to the conversation with Catchings, Petitioner said that it had occurred a while ago and he had forgotten about it until Chief Hassell had mentioned it. Petitioner continues to deny having a relationship with Ms. Wesley.

35. At the time he was part of the interviewing committee, the only person who had made a comment to him concerning any alleged improper relationship was Catchings and it had been quite some time before. The conversation with McKellar was while the interviews were being conducted. Petitioner did not know before hand who the interviewees were going to be.

36. Chief Hassell never interviewed Ms. Wesley ostensibly because the issue was not about the truth of the matter concerning any inappropriate relationship, but only about the existence of rumors.

37. This entire inquiry began because of the questioning of the Petitioner participating on the interview committee. The issue was raised only after Ms. Glover learned that she was not going to get the promotion.

38. It is important to understand in the context of this inquiry that Ms. Wesley was determined to be the superior candidate for the job by all three of those conducting the interviews. Petitioner did not give her the highest marks among the three; Mr. Mercer did. The evidence is that it "wasn't even close" between Ms. Wesley and the second place candidate, Ms. Glover. Even if Petitioner's grades had been discarded, Ms. Wesley should have been given the position.

39. Based on the evidence in this hearing, there were irregularities in the hiring for the position at issue, but not by Petitioner. Ms. Glover was ultimately given the position. From the evidence presented the only reason Glover was found to be superior was because she was given a "veteran's preference." Based on the evidence in this hearing, she was NOT entitled to the veteran's preference as set forth in N. C. Gen. Stat. § 126-80 – 83, § 128-15.

40. During his investigation, Chief Hassell also learned that Petitioner had made a sexually explicit remark in front of two subordinates while conducting a background phone interview in the office. (**Resp. Ex. 1**) Sergeant Luis Cruz and Officer Vernon Singletary both testified that they were working with Petitioner one evening when he asked the individual on the phone whether the person liked "taking it in the ass." Cruz and Singletary both later realized that Petitioner must have pressed the mute button on the phone prior to making the comment.

41. Both Cruz and Singletary initially laughed at the remark but were shocked by the comment and believed the comment to be inappropriate. Neither man reported the incident to anyone else.

42. When Chief Hassell initially asked Sgt. Cruz about the incident, Cruz did not remember. It was only after more discussion from the Chief that Cruz's memory was refreshed about the incident.

43. When asked about the incident by Chief Hassell, Petitioner was forthcoming and admitted to his role in the incident without any hesitation. Petitioner admitted that it was wrong and in poor judgment that such comment was made. Both Cruz and Singletary admitted that such incident was an aberration from the professionalism that Petitioner typically portrayed.

44. Chief Hassell also learned during his investigation of Ms. Glover's grievance that Petitioner had been driving around for nine (9) months with expired tags on his vehicle. Chief Hassell raised the issue of the expired tags with Petitioner and Petitioner renewed the tags shortly thereafter. Petitioner explained that his tags were expired for such a long time because his truck needed extensive brake work and he did not have the money to pay for the repair. Petitioner acknowledged that he fixed the brakes immediately after Chief Hassell mentioned the expired tags.

45. Chief Hassell acknowledged that for the expired registration standing alone, the appropriate punishment probably would have been only a "counseling." Chief Hassell also

acknowledged that the appropriate punishment for the inappropriate statement in front of his subordinates might have been counseling as well, but perhaps something more.

46. Chief Hassell was the ultimate decision maker in this disciplinary matter with Petitioner. He was also the only investigator into the allegations. There is no way to measure how, or if at all, his decision making may have been tainted by extraneous information he learned through his investigation. The two roles should have been separated and conducted by different individuals.

47. Throughout his almost ten years of state employment, Petitioner was never previously subjected to any disciplinary action or sanction by any of his employers.

48. On or about October 30, 2012, Respondent evaluated Petitioner's overall work performance as "very good." (R-5)

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has personal jurisdiction over the issue in this contested case pursuant to Chapter 126 and Chapter 150B of the North Carolina General Statutes. The parties are properly before the Office of Administrative Hearings.

2. There is no issue of proper procedure.

3. Respondent Fayetteville State University is subject to Chapter 126 of the North Carolina General Statutes and is the former employer for Petitioner.

4. A "career State employee" is defined as a state employee who is in a permanent position appointment and continuously has been employed by the State of North Carolina in a non-exempt position for the immediate 24 preceding months. N.C. Gen. Stat. § 126-1.1

5. At the time of his discharge, Petitioner was a career State employee subject to the provisions of the State Personnel Act, N.C. Gen. Stat. § 126-1, *et seq.*

6. Pursuant to regulations promulgated by the Office of State Human Resources, there are two bases for the dismissal of an employee for just cause: (1) unsatisfactory job performance; and (2) unacceptable personal conduct. 25 N.C.A.C. 01J .0604(b). However, "the categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case." 25 N.C.A.C. 01J .0604(c). Furthermore, "[n]o disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly." *Id.*

7. An employee must receive at least two prior disciplinary actions before being dismissed for a current incident of unsatisfactory job performance. 25 N.C.A.C.01J .0605(b). However, an employee may be dismissed without any prior warning or disciplinary action when the basis for dismissal is unacceptable personal conduct. 25 N.C.A.C. 01J 0608(a). One instance of unacceptable conduct constitutes just cause for dismissal. *Hilliard v. North Carolina Dep't of Corr.*, 173 N.C. App. 594, 597, 620 S.E.2d 14, 17 (2005).

8. Unacceptable personal conduct, as defined by the Office of State Human Resources, includes insubordination, "conduct for which no reasonable person should expect to receive prior warning," and "conduct unbecoming a state employee that is detrimental to state service." 25 N.C.A.C. 01J .0614(8). Insubordination is defined as the "willful failure or refusal to carry out a reasonable order from an authorized supervisor." 25 N.C.A.C. 01J .0614(7) In the case of "conduct unbecoming a state employee that is detrimental to state service," the State employer is not required to make a showing of actual harm, "only a potential detrimental impact (whether conduct like the employee's could potentially adversely affect the mission or legitimate interests of the State employer)." *Hilliard,* 173 N.C. App at 597, 620 S.E.2d at 17.

9. A career State employee may be dismissed only for just cause. N.C. Gen Stat. § 126-35(a).

10. Respondent has the burden of showing by a preponderance of the evidence that it had "just cause" to discharge Petitioner from employment. N.C. Gen. Stat. § 126-35(d); N.C. Gen. Stat. § 150B-29(a); *see* also *Teague v. N.C. Dep't. of Transportation,* 177 N.C. App. 215, 628 S.E.2d 395, *disc. rev. denied,* 360 N.C. 581 (2006).

11. Determining whether a public employer had just cause to discipline its employee requires two separate inquiries: first, whether the employee engaged in the conduct the employer alleges, and second, whether the conduct constitutes just cause for the disciplinary action taken. *N.C. Dep't. of Env't & Natural Res. v. Carroll,* 358 N.C. 649, 599 S.E.2d 888 (2004).

12. The fundamental question in a case brought under N.C. Gen. Stat. § 126-35 is whether a disciplinary action taken was "just." Inevitably, this inquiry requires an irreducible act of judgment that cannot always be satisfied by the mechanical application of rules and regulations. "Just cause," like justice itself, is not susceptible of precise definition. It is a flexible concept, embodying notions of equity and fairness, which can only be determined upon an examination of the facts and circumstances of each individual case. Thus, not every violation of law gives rise to "just cause" for employee discipline. *N.C. Dep't. of Env't & Natural Res. v. Carroll,* 358 N.C. 649, 599 S.E.2d 888 (2004).

13. The "best way to accommodate the Supreme Court's flexibility and fairness requirements for just cause is to balance the equities after the unacceptable personal conduct analysis." *Warren v. N.C. Dep't of Crime Control,* 726 S.E.2d 920, *disc. rev. denied,* 366 N.C. 408, 735 S.E.2d 175 (2012).

14. At no time was Petitioner ever dishonest with Chief Hassell during the course of his internal investigation concerning LaDonna Glover's accusations, which were ultimately determined to be without merit. Accordingly, Respondent failed to show that Petitioner engaged in any dishonesty in responding to Chief Hassell's questions.

15. When questioned about the "rumors", Petitioner initially denied, but in each instance when his memory was refreshed he readily admitted to the conversations with McKellar and Catchings. Sgt. Cruz needed the Chief to refresh his recollection as well concerning the inappropriate comments by Petitioner. Even the North Carolina Rules of Evidence acknowledge the need to occasionally refresh ones recollection and/or memory and

establishes a procedure for doing so in court.

16. When a person's memory or recollection is refreshed, it becomes a matter of his truthfulness or veracity. In this instance, Petitioner admitted readily to the conversations when his memory was refreshed. He did not continue to deny or challenge the veracity of those who had made the statements. Importantly, he had readily and without hesitation admitted to the other two assertions against him, the improper remark and the expired registration.

17. This case poses a rather odd set of circumstances. The Petitioner is being disciplined in part for a violation of the "rumors" policy of the University. The inquiry was whether or not he was aware of rumors of his infidelity. The University cared not if he was involved in an inappropriate relationship—that was not a violation of policy. The concern was that Petitioner was not truthful with the Chief in whether or not he was aware of rumors. The policy put an affirmative burden on the inquirer to determine the truthfulness of the rumors.

18. Interestingly, the very "rumor" policy that is being applied to Petitioner also applies to Ms. Glover. The basis for her assertions was not substantiated. Per the policy, the Chief had a duty to investigate Glover, but did not. Glover could have been disciplined but instead she was promoted!

19. Petitioner admitted that he engaged in poor judgment by making the sexually explicit comment before two male subordinates. The comments were entirely inappropriate in the workplace; however, it seems to have been an isolated incident. Such conduct by itself does not constitute just cause to dismiss.

20. Petitioner likewise admitted that he improperly maintained a personal vehicle with expired registration for approximately nine months because he needed extensive repairs before it could pass inspection and be registered. Once Chief Hassell pointed out the issue to Petitioner, Petitioner got his personal vehicle properly registered within a day or two. For someone with the extensive history in law enforcement that Petitioner has to allow his personal vehicle to knowingly have expired registration for a period of nine months is extremely disconcerting. While the failure to maintain current registration on a personal vehicle is improper as well as a violation of the law, such conduct by itself does not constitute just cause to dismiss.

21. Chief Hassell did not see that either of the offenses of expired registration and inappropriate remark as being grounds to terminate. He instead felt that it was the totality of all three allegations.

22. The *Warren* Court holds that "a commensurate discipline approach applies in North Carolina." The Court noted that this inquiry is appropriate despite the fact that the regulations may rather rigidly define just cause as unacceptable personal conduct.

23. The proper analytical approach is to first determine whether the employee engaged in the conduct the employer alleges. The second inquiry is whether the employee's conduct falls within one of the categories of unacceptable personal conduct provided by the Administrative Code. Unacceptable personal conduct does not necessarily establish just cause for all types of discipline. If the employee's act qualifies as a type of unacceptable

conduct, the tribunal proceeds to the third inquiry: whether that misconduct amounted to just cause for the disciplinary action taken. Just cause must be determined based "upon an examination of the facts and circumstances of each individual case." (Citing *Carroll* at 669, 599 S.E.2d at 900).

24. *Warren v. N. Carolina Dep't of Crime Control & Pub. Safety, N. Carolina Highway Patrol*, 726 S.E.2d 920, 925 (N.C. Ct. App. 2012) *review denied*, 366 N.C. 408, 735 S.E.2d 175 (2012)

25. Respondent failed to prove by a preponderance of the evidence that Petitioner had been untruthful in addressing with the Chief the issue of rumors between Petitioner and Ms. Wesley. There was no ethical violation in Petitioner's participation on the hiring selection committee.

26. Petitioner has admitted and it is therefore concluded that he made the inappropriate remarks in the presence of his subordinates and he drove his personal automobile for approximately nine months with expired registration. Thus the next step in the *Warren* analysis would be to determine what punishment would be just under the facts and circumstances of this particular contested case.

27. Respondent failed to prove by a preponderance of the evidence and thus has not met its burden that it had just cause to terminate Petitioner's employment for allegedly having engaged in unacceptable personal conduct under N.C. Gen. Stat. § 126-35 and 25 N.C.A.C. 1J.0608, *et seq.*

28. Based upon the facts and circumstances of this contested case the "just" remedy is to demote Petitioner by one rank and pay grade and for Petitioner to forfeit two week's pay.

29. By affidavit filed separately in this matter, Petitioner's counsel performed 70.90 hours of legal work in this contested case up to and including March 31, 2014. Petitioner's counsel billed Petitioner at the average rate of $201.13 per hour, which was a reduced hourly from Petitioner's standard hourly rate of $250.00 per hour. In all, Petitioner incurred attorney's fees in the amount of $14,260.00 in attorney's fees up to and including March 31, 2014. The undersigned ALJ finds the sum of $14,260.00 as a reasonable attorney fees for Respondent to be required to reimburse Petitioner for having incurred the same.

DECISION:

Based on the forgoing findings of fact and conclusions of law, Respondent terminated Petitioner's employment without just cause in violation of N.C. Gen. Stat. § 126-35. Accordingly, Respondent shall reinstate Petitioner to a position with Respondent that is one rank and pay grade below the rank and pay grade that petitioner was receiving at the time of his dismissal. Respondent shall also reimburse Petitioner for his back pay, benefits, and attorney's fees as provided under the provisions of N.C. Gen. Stat., Ch. 126 and N.C. Admin. Code, Ch. 25, *et seq.* Petitioner shall forfeit two week's pay as part of this discipline.

NOTICE:

This Final Decision is issued under the authority of N.C.G.S. § 150B-34. Pursuant to N.C.G.S. § 126-34.02, any party wishing to appeal the Final Decision of the Administrative Law Judge may commence such appeal by filing a Notice of Appeal with the North Carolina Court of Appeals as provided in N.C.G.S. § 7A-29 (a). The appeal shall be taken within 30 days of receipt of the written notice of final decision. A notice of appeal shall be filed with the Office of Administrative Hearings and served on all parties to the contested case hearing.

This the 15th day of July, 2014.

Honorable Donald W. Overby
Administrative Law Judge