



¶ 3 On June 7, 2007, the plaintiff was charged with violating two provisions of the Code of Conduct in that she (1) engaged in conduct that is unbecoming for a member of the sheriff's department (the Department) or that tends to reflect discredit on the Department as a result of her giving prohibited food items to jail detainee William Jefferson and (2) associated with a person having a known criminal record or conviction, Corey Willis, after knowing that he had been charged with, but not convicted of, a felony drug offense. After an evidentiary hearing, the Commission found that the plaintiff had violated both provisions of the Code of Conduct. After a further hearing in mitigation and aggravation, the Commission terminated the plaintiff's employment.

¶ 4 The plaintiff brought an action for administrative review in the circuit court of St. Clair County. That court affirmed the decision of the Commission. The plaintiff appealed to this court.

¶ 5 In a Rule 23 order filed October 22, 2009 (*Graham v. County of St. Clair et al.*, No. 5-08-0546 (Oct. 22, 2009) (unpublished order pursuant to Supreme Court Rule 23 (eff. May 30, 2008))), this court reversed the Commission as to its finding that the plaintiff had violated the second provision, associating with Willis, a person having a known criminal record or conviction. The court found the rule prohibiting association to be unconstitutionally vague because it does not adequately define the term "associate." This court affirmed the Commission's finding that the plaintiff had violated the first provision, that is, that she had engaged in conduct that is unbecoming for a member of the Department or that tends to reflect discredit on the Department as a result of her giving prohibited food items to jail detainee Jefferson.

¶ 6 The court held that the Commission had sufficient evidence before it to find that the plaintiff did in fact give prohibited food items to Jefferson. Because this court could not determine whether the Commission would still believe that its punishment of termination of

employment was appropriate given the reversal of finding of guilt on one of the charges, it remanded the cause to the Commission for a new disciplinary hearing at which the Commission was to consider the appropriate punishment in light of the appellate court's order.

¶ 7 On March 18, 2010, the Commission held that hearing. The hearing was solely for the purpose of determining the appropriate punishment. No evidence was presented. The parties agreed that the Commission should consider the arguments made at the original hearing on punishment held November 30, 2007.

¶ 8 The Department argued that termination was the appropriate punishment because the plaintiff's conduct threatened the security and order of the jail, putting other correctional officers at risk of harm. Jefferson, the detainee to whom the plaintiff was found to have given prohibited food items, was at that time considered the most dangerous detainee in the jail. He had been charged with murder, and while in jail he had engaged in various acts of violence against correctional officers, requiring their hospitalization. The plaintiff had been briefed that Jefferson was a security risk and posed a danger to correctional officers and was to be moved only in shackles and handcuffs. The plaintiff's conduct in treating Jefferson with favoritism jeopardized the security and the order of the jail.

¶ 9 The Department argued that cause for discharge is any shortcoming which renders the officer's continuance in office in some way detrimental to the discipline and efficiency of the service. The plaintiff's conduct undermined the authority of every correctional officer in the jail. The Department argued that the plaintiff had exhibited substantial shortcoming as a correctional officer and that her continued employment would have a substantial impact on the discipline and efficiency of the jail.

¶ 10 The plaintiff argued that termination was not appropriate, that she could be rehabilitated, and that suspension was more appropriate. She pointed out that in her six years

of employment she had only had one disciplinary action, which she had acknowledged and accepted.

¶ 11 On April 7, 2010, the Commission entered an order terminating the plaintiff's employment. This order did not include any findings of fact, conclusions of law, or reasoning of the Commission.

¶ 12 On May 17, 2010, the plaintiff filed in the circuit court of St. Clair County a complaint for administrative review of the Commission's termination order. After considering the arguments of the parties, the circuit court entered an order remanding the cause to the Commission and directing it to clarify its order of April 7, 2010. The Commission was directed to enter an order stating the specific factual reason(s) it determined justified taking an adverse employment action against the plaintiff and why discharge from employment was the punishment imposed.

¶ 13 On March 22, 2011, the Commission entered an order clarifying its order of April 7, 2010, which terminated the plaintiff's employment. The Commission found that the plaintiff had been deceptive in her testimony before the Commission. The Commission found that the plaintiff's conduct in giving prohibited food items to a detainee was conduct unbecoming for a member of the Department, that it tended to bring discredit upon the Department, and that it negatively impacted the morale of the Department members. The Commission further found that the plaintiff's conduct in giving prohibited food items to a detainee negatively impacted and compromised the security of the jail.

¶ 14 On April 8, 2011, the circuit court of St. Clair County entered an order affirming the decision of the Commission. The court found that the decision of the Commission was neither arbitrary nor capricious and was not contrary to the manifest weight of the evidence. The plaintiff now appeals to this court.

¶ 15 In reviewing a decision under the Administrative Review Law (735 ILCS 5/3-101 *et*

*seq.* (West 2010)), we review the decision of the administrative agency rather than that of the circuit court. *Bassett v. Pekin Police Pension Board*, 362 Ill. App. 3d 235, 237 (2005).

¶ 16 A court's scope of review of an administrative agency's decision regarding the discharge of an employee is a two-step process. *Walsh v. Board of Fire & Police Commissioners*, 96 Ill. 2d 101, 105 (1983). First, the court must determine whether the agency's findings of fact are contrary to the manifest weight of the evidence. *Walsh*, 96 Ill. 2d at 105. The second step of the review process is to determine if the findings of fact provide a sufficient basis for the agency's conclusion that cause for discharge does or does not exist. *Walsh*, 96 Ill. 2d at 105.

¶ 17 On the plaintiff's first administrative review of the Commission's decision, both the circuit court and this court concluded that the Commission's findings regarding guilt were not contrary to the manifest weight of the evidence. This court remanded the cause for further determination by the Commission regarding the appropriate punishment. In determining the appropriate punishment for the plaintiff's violation of the Code of Conduct, the Commission made further findings of fact. The Commission determined that the plaintiff's conduct negatively impacted the morale of the Department members, negatively impacted and compromised the security of the jail, and tended to bring discredit upon the Department.

¶ 18 An agency's findings of fact with respect to discharge are deemed *prima facie* true and correct, and a reviewing court will not reweigh the evidence or make an independent determination of the facts. *Merrifield v. Illinois State Police Merit Board*, 294 Ill. App. 3d 520, 528 (1998). The assessment of witness credibility, the determination of the weight accorded to the testimony, and the inferences to be drawn from the evidence are matters within the province of the agency. *Merrifield*, 294 Ill. App. 3d at 520. A reviewing court is limited to ascertaining whether an opposite conclusion is clearly evident from the record

or whether the Commission's findings are unreasonable, arbitrary, and not based on any of the evidence. *Merrifield*, 294 Ill. App. 3d at 528. If the record contains any competent evidence to support the agency's findings, the decision must be sustained on review. *Merrifield*, 294 Ill. App. 3d at 528.

¶ 19 Cause for discharge has been defined as some substantial shortcoming which renders the employee's continuance in his office or employment in some way detrimental to the discipline and efficiency of the service and something which the law and a sound public opinion recognize as a good cause for his no longer occupying the position. *Walsh*, 96 Ill. 2d at 105. An administrative agency's finding of cause for discharge is to be overturned only if it is arbitrary and unreasonable or unrelated to the requirements of the service. *Walsh*, 96 Ill. 2d at 105.

¶ 20 A single valid finding of a violation of Departmental rules will authorize dismissal. *McCleary v. Board of Fire & Police Commissioners of the City of Woodstock*, 251 Ill. App. 3d 988, 998 (1993). The Commission's decision will stand even if a reviewing court considers another sanction more appropriate because the Commission is in the best position to determine the effect of the officer's conduct on the proper operation of the Department. *Duncan v. City of Highland Board of Police & Fire Commissioners*, 338 Ill. App. 3d 731, 736 (2003).

¶ 21 At this step of the review process it is important to remember that the scope of our review is limited to determining whether the agency's findings of fact provide a sufficient basis for the agency's conclusion that cause for discharge does or does not exist. *Walsh*, 96 Ill. 2d at 105.

¶ 22 We turn now to the arguments raised by the plaintiff. The plaintiff first argues that the Commission's decision of March 22, 2011, violates her due process rights because it expanded the basis utilized for termination by adding newly alleged wrongdoing and relying

on new allegations to support termination. Specifically, the plaintiff argues that the Commission relied on evidence of the following uncharged violations: that the plaintiff was deceptive in her testimony before the Commission and that her conduct negatively impacted and compromised the security of the jail. The plaintiff argues that she was not charged with being deceptive and was not charged with any security violation, and she had no notice of such charges and no hearing thereon.

¶ 23 With respect to the Commission's finding that the plaintiff's conduct in giving prohibited food items to a detainee negatively impacted and compromised the security of the jail, we disagree with the plaintiff's characterization of this finding as a new allegation of wrongdoing or a new charge of a violation of the Code of Conduct. This is simply the Commission's finding as to the consequence or effect of the plaintiff's violation or misconduct in giving prohibited food items to a detainee. It is the Commission's finding as to why the plaintiff's misconduct justified discharge as opposed to a lesser punishment. It does not present a new allegation of wrongdoing for which the plaintiff is entitled to notice and a hearing. No due process violation occurred as a result of the Commission's finding in this regard.

¶ 24 To the extent the Commission relied on its finding that the plaintiff had been deceptive in her testimony before the Commission in deciding to discharge her, we find any error to be harmless. A single valid finding of a violation of Departmental rules will authorize dismissal. *McCleary v. Board of Fire & Police Commissioners of the City of Woodstock*, 251 Ill. App. 3d 988, 998 (1993). As we held on appeal in the plaintiff's first administrative review action, the Commission's finding of a violation of Departmental rules by the plaintiff's conduct in giving prohibited food items to a detainee was not contrary to the manifest weight of the evidence and was a valid finding. If that violation is valid cause for discharge, any error in the Commission's consideration of the plaintiff's alleged deceitfulness

as a cause for discharge is harmless.

¶ 25 We turn then to the second issue raised by the plaintiff on appeal, that the plaintiff's violation of the Code of Conduct by giving prohibited food items to a detainee is not valid cause for discharge. The Commission found that the plaintiff's misconduct tended to bring discredit upon the Department and negatively impacted the morale of the Department members. The Commission further found that the plaintiff's misconduct negatively impacted and compromised the security of the jail.

¶ 26 We begin by pointing out that these findings are supported by the evidence presented to the Commission. The superintendent of the jail at which the plaintiff worked, Major Knapp, testified that detainee Jefferson was a very dangerous inmate, that he was charged with murder and while in custody had violently attacked several correctional officers, sending them to the hospital. The plaintiff was aware of this, and her act of giving him prohibited food items "led to a serious demoralization of the officers that were involved in that attack." Her conduct was "an absolute insult" to the officers who were injured by Jefferson.

¶ 27 Knapp also testified that the plaintiff's conduct affects security and safety in the jail because if the plaintiff is willing to give a detainee prohibited food items, it raises the question of what else will she give to detainees. It makes her subject to pressure from the inmates because they know she has already violated the Code of Conduct once. It also puts the plaintiff herself in danger because it requires her to get very close to the inmate without his being shackled. The plaintiff's immediate supervisor, Lieutenant White, also testified that the plaintiff's conduct jeopardized the security and order of the jail.

¶ 28 Thus, the plaintiff was not discharged simply because she gave prohibited food items to a detainee, but because doing so had serious security implications and demoralized her fellow officers. The Commission reasonably could have concluded that the plaintiff's

conduct exhibited a substantial shortcoming which rendered her continuance in office detrimental to the discipline and efficiency of the service. The Commission reasonably could have further concluded that the plaintiff's misconduct was something which the law and a sound public opinion would recognize as a good cause for the plaintiff's discharge from service.

¶ 29 Again, the Commission and not the reviewing court is in the best position to assess how an officer's conduct affects the Department's operations. *Merrifield*, 294 Ill. App. 3d at 529. The Commission's finding of cause is not arbitrary or unreasonable or unrelated to the requirements of the service. *Walsh*, 96 Ill. 2d at 105. Accordingly, we affirm the decision of the Commission discharging the plaintiff from employment.

¶ 30 For the foregoing reasons, the judgment of the circuit court of St. Clair County and the decision of the St. Clair County Sheriff's Merit Commission are hereby affirmed.

¶ 31 Affirmed.