

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2013-132

TERESA FULLER

APPELLANT

VS. FINAL ORDER  
SUSTAINING HEARING OFFICER'S  
FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER

JUSTICE AND PUBLIC SAFETY CABINET  
DEPARTMENT OF CORRECTIONS  
J. MICHAEL BROWN, APPOINTING AUTHORITY

APPELLEE

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The Board at its regular February 2014 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated January 2, 2014, and being duly advised,

**IT IS HEREBY ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be, and they hereby are approved, adopted and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

**SO ORDERED** this 19th day of February, 2014.

KENTUCKY PERSONNEL BOARD

  
MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Stafford Easterling  
Teresa Fuller  
Stephanie Appel

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2013-132

TERESA FULLER

APPELLANT

VS.

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER**

JUSTICE AND PUBLIC SAFETY CABINET  
DEPARTMENT OF CORRECTIONS  
J. MICHAEL BROWN, APPOINTING AUTHORITY

APPELLEE

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This matter came on for an evidentiary hearing on November 18, 2013, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before Kim Hunt Price, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

Appellant, Teresa Fuller, was present at the hearing, and was not represented by legal counsel. Appellee, Justice and Public Safety Cabinet, Department of Corrections, was present and was represented by the Hon. Stafford Easterling.

**BACKGROUND**

1. Appellant, Teresa Fuller, was terminated from her position of Correctional Officer at the Western Kentucky Correctional Complex (WKCC) by letter dated March 27, 2013, which is attached and incorporated herein as **Recommended Order Attachment A**.

2. Appellant received a notice of intent to dismiss by letter dated March 5, 2013, and exercised her right to meet with the Warden prior to the termination letter being delivered.

3. Appellant filed a timely appeal on or about May 28, 2013, stating:

The dates given and my responses were not accurate. I did not speak to HR at WKCC for 30 days, which I felt H.R. should have let me know she/they did not get the information that was being sent.

4. The parties entered into stipulations of fact, filed of record on November 13, 2013, which are attached and incorporated herein as **Recommended Order Attachment B**.

5. Appellant, **Teresa Fuller**, testified that her primary duty was to oversee the inmates daily at different posts within the correctional facility.

6. Appellant acknowledged that she had texted Stan Werderman during work hours. She explained that in November of 2012 she had hit a deer and Werderman knew someone who could possibly repair her van. She talked with him over a three-day period on the phone about the situation. The first conversation was a couple of days before Christmas and then again after Christmas. She acknowledged that she was at work and used her cell phone during work hours on December 23, 2012. However, on December 28 she texted Werderman prior to coming to work. At that time Werderman was also at work, and she thinks that the text did not show up until he turned his phone on when he got off work which would have made it appear the call was actually made during her working hours.

7. Appellant also acknowledged in her testimony that when asked if she had texted during work that she said "no" in the initial interviews. She did not recall making any statement concerning a flashlight, but does not have a flashlight on her phone. She stated that she did not use her cell phone while in Wall Stand 3, but did while in the yard.

8. Appellant testified that during the investigation in this matter she submitted Appellee's Exhibit 1, a letter from her husband stating that he had her phone during the month of December 2012. The letter stated her husband had texted Stan on the date that Werderman said she had texted him. Mr. Fuller stated in his said letter that he did not inform the Appellant that he had done this until she received her notice of termination from the state. He stated that she did not have her phone back until January 13, 2013.

9. At the hearing Appellant testified that she had the phone back in enough time for the communications that were the subject of this action in December to have taken place. Therefore, the Hearing Officer notes that the letter Appellant had previously submitted from her husband was misleading to Appellee.

10. Appellant testified that on January 15, 2013, she clocked-in to Wall Stand 3 at WKCC. The clock-in area is not a secured area and from there an employee gets into their personal vehicle and drives to Wall Stand 3, located behind the building. When she got to Wall Stand 3, Sgt. Jennifer Matthews told her that she was going to pat Appellant down and asked if she had anything on her. She told Sgt. Matthews that she had her cell phone and Matthews then found the charger as well. She also told Matthews that she had her medication in her lunch bag and Matthews got those out. She was given no indication why she was being searched.

11. Appellant acknowledged that she was aware that you cannot take Hydrocodone onto the compound, but felt that because Wall Stand 3 was outside the secured area, with no contact with inmates and that she could not come down from there for breaks long enough to get the medicine, that she was allowed to have her medications with her. However, she did acknowledge that she is still subject to policy and procedure while on the Wall Stand.

12. Appellant testified that because there are limited exceptions in WKCC Policy and Procedure 03-00-04, she felt that if you are in a post from which you could not be relieved to take medications it was okay to bring them on to that shift. However, she acknowledged that she never had received approval from anyone to take the medications onto post.

13. Appellant testified that she did submit to a reasonable suspicion drug test and learned of the results on December 22, 2012. The lab results were introduced as Appellee's Exhibit 2. Appellant tested positive for Barbiturates, namely Butalbital and Phenobarbital, and for Opiates, namely Hydrocodone and Hydromorphone. After that Betty Woodward contacted her and she produced her prescription. She used CVS and Wal-Mart pharmacies and submitted her CVS, but forgot the Wal-Mart one. Appellee's Exhibit 3 showed her CVS prescriptions and Appellee's Exhibit 4 showed her Wal-Mart prescriptions. Appellee's Exhibit 5 was a list of her current medications.

14. Appellant acknowledged that her prescriptions from CVS would not have resulted in positive test for Phenobarbital or barbiturates. When she learned of this she remembered that she had Wal-Mart and told Woodward that the doctor would send those prescriptions to her. She saw her doctor on January 30, 2013, and assumed that Woodward soon after received a fax from the doctor because she had not heard back from Woodward. Apparently, Woodward never got any prescription records from the doctor. She gave this information to the Warden during her pre-termination conference on March 20, 2013.

15. Appellant acknowledged that Woodward contacted her by phone on January 29, January 31, and February 1. When she spoke to Woodward on January 30 she told her of these medication prescriptions, and Woodward told her that did not matter because she did not have the prescription at the time. She received the prescription on January 30 from a new doctor, but had an old prescription for the same medication prior to that. She had switched medications from Fioricet to Imitrex and then back to Fioricet. Dr. Graham in Fredonia, Kentucky, is the person who had switched her to the Imitrex and it did not work so she went back to the Fioricet. She also had medications to keep her from getting nausea. She thought that the Fioricet was what would have tested positive for barbiturates and Phenobarbital. She acknowledged that her use of medications violated the policies of the institution and Corrections.

16. **Dr. Doug Crall**, Medical Director for the Department of Corrections for the last two years and a Corrections employee for a total of fifteen years, testified that all positive drug screens are sent past him to determine if there are medical explanations for the results. He stated that Appellant's prescriptions that were presented explained the positive test results to Hydrocodone and Hydromorphone. However, none of the prescriptions that she presented accounted for the barbiturates and Butalbital. He testified that the prescription for Fioricet could have accounted for the Butalbital, but that prescription was issued after the fact of the drug test. He further testified that if she had a bottle to show him that she had an old prescription for Fioricet that would have been acceptable to him.

17. In any event, Dr. Crall testified that the Fioricet prescription does not account for the presence of Phenobarbital. He testified that the way the drug testing is set up it will pick up false screens and that the testing was highly specific in order to rule out any false positives. He did testify that Phenobarbital is not a drug that is highly abused and, therefore, he was surprised to see it in a drug screen without a prescription for it. Phenobarbital is a Scheduled 4 controlled substance.

18. **Steve Woodward**, the Warden at WKCC, testified that he has been with Corrections since 1990. An Internal Affairs Officer reported that Werderman had reported he had received texts from Appellant while she was on duty. The Warden testified that there is a problem with cell phones being on post. If an inmate obtains them they can communicate with people outside without the prison's knowledge which can be problems with contraband, riots or other safety issues. Also, these phones are a problem if an employee has a phone while working; they are not being alert on their post. In addition, phones now serve as mass storage devices and an employee can photograph an inmate or other confidential information and take it outside of the facility. Therefore, he ordered an internal investigation in this matter.

19. The Warden testified that the problems with the prescription medications on the post are multiple. First, policy states that the prescriptions have to be kept in the Control Center and that an employee can then come down on break to take them or request a break to take them. Otherwise, an institution cannot be sure that an employee was using them correctly or not giving them to inmates. Second, although the Wall Stand does not have direct contact with inmates, it would be very easy to toss the medications into the secure perimeter from the Wall Stand and an inmate could then obtain them.

20. The Warden testified that he chose dismissal in this case because there were multiple occurrences, namely, prescription drugs on post, use of cell phones on post on more than one occasion, and the drug screen showing drugs for which there was no prescription.

### **FINDINGS OF FACT**

1. WKCC Policy and Procedure 03-00-04(F.), Use of Medication while on Duty, (introduced as Appellee's Exhibit 9) states:

1. The following shall apply to all types of medications brought to the institution for use during employee's work hours whether prescription or over-the-counter medication except for aspirin, Tylenol, and anti-acid tablets. These exceptions may be possessed in small quantities in the original container.
  - a. Employees shall complete an Employee Medication Usage Form and receive written approval from the Shift Supervisor prior to bringing in medication.

- b. Copies shall be distributed to the employee, and a confidential file in the Control Center.
  - c. By signing the form, the Shift Supervisor shows approval, after which the employee shall be responsible to notify his supervisor.
  - d. Only the amount prescribed to be taken during work hours shall be brought into the institution and shall be easily identified:
    - (1) If prescription medication, the day's dosage shall be in the container with prescription attached.
    - (2) If non-prescribed (over-the-counter) the medication shall be in the bottle or package clearly identifying the medication.
  - e. All medications along with the form shall be presented to the Control Center Officer.
    - (1) The employee may place the medication or prescription in its original container inside a sealed envelope with his name on the outside of the envelope.
    - (2) The Control Center officer shall place the form in the confidential file and the medication in the cabinet provided.
  - f. The employee shall make arrangements with his supervisor to report to Control if medication is due.
  - g. Any medication brought into the institution, which is not taken during the work hours, shall be checked out by the employee if going off duty and removed from the premises.
2. All employees are expected to comply with Section F, 1, a through e, and g; however, there may be limited exclusions to Section F, e, (2) and f.
- a. If necessary to have medication available at all times (i.e. as heart medication); the employee shall maintain the medication upon his person as long as needed.

- b. If an employee is on a post from which it is not practical to be relieved and required to take medication, he shall be allowed to take the day's dosage to his post.

3. All medication shall be checked daily.

2. Kentucky Corrections Policy and Procedure 3.11, Drug Free Workplace Employee Drug Testing, section II., Policy and Procedure, (D.) states: "Alcohol or any other substance or substances shall not be brought on to or consumed at the work site, or while on duty." "Other substance or substances" is defined in section I., Definitions, "means any drug, chemical, or substance that has, or may have, the effect of impairing the mind or body, or otherwise affect the senses, responses, motor function, or alter a person's perception while on duty." Said policy further allows testing of employees for drugs. Section II., Policy and Procedure, (G.) states: "Any prescription drug brought to the work site or carried by an employee while on duty shall be in its original container."

3. Kentucky Corrections Policy and Procedure 3.1, Code of Ethics, Section II, Policy and Procedures, (D.)(4.) states: "If an employee uses medication which may adversely affect his job performance, the employee shall notify his immediate supervisor."

4. Kentucky Corrections Policy and Procedure 3.2, Section I, Definitions, defines "Communication device" to include a cellular phone. Section II., Policy and Procedure, (A.), states: "A Corrections employee or contractor shall not possess or use a personal communication or recording device while on duty."

5. The Appellant brought her cell phone to work onto the premises on January 14 and 15, 2013, by her own admission. Further, by her admission she used her cell phone by texting while working December 23, 2012. Evidence indicates that she may have had a phone on post and on other occasions in December.

6. Appellant tested positive for Phenobarbital, for which she never produced any prescription. In addition, she tested positive for Butalbital for which she may have an outdated prescription.

7. Appellant had valid prescriptions for Hydrocodone; however, she brought those onto the premises of the institution on January 15, 2013, without leaving them at the Control Center. The pills Appellant had at work on January 15, 2013, for diarrhea and Hydrocodone were not in a proper prescription bottle for those two medications.

8. The parties entered into certain stipulations of fact which were filed of record on November 13, 2013 (see **Recommended Order Attachment B**).

9. 101 KAR 1:345, Section 1 and 2, states:

Section 1. General Provision.

Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

Section 2. Dismissal.

(1) The notice required by KRS 18A.095(6) and (7) may be combined provided all requirements are satisfied.

(2) When the employee is notified, copies of the notice of intent to dismiss and the notice of dismissal or other penalization shall be forwarded to the Commissioner of Personnel on the same date notice is delivered to the employee.

**CONCLUSIONS OF LAW**

1. Appellant, Teresa Fuller, taking her cell phone on post and using it on post violates policy and procedure.
2. Appellant taking prescription medications, namely Hydrocodone, on to post in a bottle other than the original prescription bottle violates policy and procedure.
3. Appellant's use of Phenobarbital without a valid prescription is in violation of policy and procedure.
4. Taken as a whole, Appellant's actions (found in the Finding of Facts above), violate numerous policies and procedures and constitutes a lack of good behavior and poor work performance. Those are serious violations to the integrity and safety of the facility and, therefore, justify a dismissal in this action.

**RECOMMENDED ORDER**

The Hearing Officer recommends to the Personnel Board that the appeal of **TERESA FULLER VS. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF CORRECTIONS (APPEAL NO. 2013-132)** be **DISMISSED**.



**NOTICE OF EXCEPTION AND APPEAL RIGHTS**

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

**Any document filed with the Personnel Board shall be served on the opposing party.**

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

**ISSUED** at the direction of **Hearing Officer Kim Hunt Price** this 2<sup>nd</sup> day of January, 2014.

**KENTUCKY PERSONNEL BOARD**

  
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**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof mailed this date to:

Hon. Stafford Easterling  
Teresa Fuller



## DEPARTMENT OF CORRECTIONS

LaDonna H. Thompson  
Commissioner

Western Kentucky Correctional Complex  
374 New Bethel Road  
Fredonia, Kentucky 42411  
Phone: 270-388-9781

Steve R. Woodward  
Warden

March 27, 2013

Teresa L. Fuller

Dear Ms. Fuller:

Having considered all statements made on your behalf during your pre-termination hearing held on March 20, 2013, I have determined that the clear weight of the evidence establishes that you committed the charges as outlined in my letter to you dated March 5, 2013.

Therefore, based on the authority of KRS 18A.095, you are hereby notified that you are officially dismissed from duty and pay effective March 28, 2013. You shall remain on administrative leave until the effective date of this dismissal.

You are dismissed pursuant to the authority of 101 KAR 1:345 and KRS 18A.095, for the following specific reason(s):

**Misconduct**, i.e., as reported by Internal Affairs Lieutenant David Meeks and Sergeant Jennifer Matthews; Aramark food service worker Stan Werderman reported to the internal affairs that you had been texting him during your work hours. In light of that information an investigation conducted by Lt. Meeks and Sgt. Matthews began to which they found text from your phone to Aramark employee Stan Werderman on ten (10) occasions between 6:29PM and 9:22PM on December 23, 2012 while you were working at Western KY Correctional Complex's Minimum Security Unit as yard officer for your 3:00PM to 11:00PM evening shift assignment. Furthermore, Mr. Werderman also received an additional text from your (309) number at 3:13PM on December 28, 2012 while you were at your Wall Stand 3 post. These texts were verified by Mr. Werderman's on-line Virgin mobile texting activity log for thirty (30) days prior to January 2, 2013. As a result of this information, on January 15, 2013, Sgt. Matthews was dropped at Wall Stand 3 at approximately 2:45 p.m., where you were scheduled to arrive at approximately 3:00 p.m. in order to work that post for the January 15, 2013 shift. Upon your entrance to Wall Stand 3, Sgt. Matthews informed you she would be conducting a pat down search and needed to search all items you would be taking to your post. The following unauthorized items were found during this search: one cell phone, one cell phone charger, an ibuprofen bottle containing unidentified pills.

You were taken to the administration's building conference room where Lt. David Meeks and Sgt. Matthews questioned you regarding having a phone on post and the unidentified pills. You stated to Lt. Meeks that the ibuprofen bottle contained nine (9) ibuprofen, twelve (12) diarrhea and six (6) Hydrocodone pills. You admitted you were aware the medications could not go on compound; however, you stated you did not realize you could get in trouble for having them in Wall Stand 3. Lt. Meeks asked you if you had made calls

or used your cell phone while on your job post. You responded, "No, I mean use my flashlight that's on it, but it's separate from the phone and I've never had to use my cell phone."

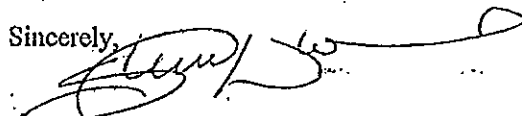
At the conclusion of the interview, you submitted to a reasonable suspicion drug test administered at 3:52 p.m. by Internal Affairs Sergeant Jennifer Matthews and mailed to Phamatech Labs on January 16, 2013. The results from the drug testing company, Phamatech, Inc., were received at the Department of Corrections, Division of Personnel, revealing a positive test for the Opiates, Hydrocodone, and Hydromorphone as well as the Barbiturates Butalbital 210ng/mL with the cutoff being 200ng/mL and Phenobarbital 226ng/mL with the cutoff being 200ng/mL. On January 22, 2013 Department of Corrections' H.R. Branch Manager Teresa Harris notified Western KY Correctional Complex's H.R. Administrator Inst. Betty Woodward via e-mail that your drug test showed positive for Butalbital, Phenobarbital, and Hydrocodone. Mrs. Woodward in turn informed you via phone on January 22, 2013 and requested you to provide proof of prescriptions for the Butalbital, Phenobarbital, and Hydrocodone. You provided Mrs. Woodward with a list of prescriptions from CVS Pharmacy between January 28, 2012 thru December 8, 2012, on January 22, 2013. This list was in turn sent to Mrs. Harris. On January 28, 2013 at 3:07 p.m., Mrs. Harris notified Mrs. Woodward via e-mail that upon Department of Corrections' Medical Director Dr. Doug Crall's review of your prescribed drugs and test results, the prescriptions provided did not cover a positive result for Butalbital or Phenobarbital. Mrs. Woodward spoke with you on January 29, 2013, January 30, 2013 and January 31, 2013 regarding providing additional documentation for the Butalbital or Phenobarbital. In addition, she left messages on your 309-642-7781 phone on February 1, 2013 and February 2, 2013. To date, you have not provided any documentation to justify Butalbital or Phenobarbital being in your system when tested on January 15, 2013.

Your actions are a violation of the Department of Corrections Drug Free Workplace Employee Drug Testing Policy 3.11, the DOC Code of Ethics, CPP 3.1, CPP 3.20 and constitutes misconduct pursuant to 101 KAR 1:345. You knew your actions were prohibited on May 17, 2011, in new employee orientation you received WKCC 03-00-04 which details the required procedure for taking all types of medications during the employee's work hours.

A copy of this notice will be forwarded to the Secretary of the Personnel Cabinet.

In accordance with KRS 18A.095, you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the date notification is received. Such appeal must be filed in writing using the attached appeal form and in the manner prescribed on the form.

Sincerely,

  
Steve R. Woodward  
Warden

Attachments (Appeal Form)

cc: Tim Longmeyer- Secretary, Personnel Cabinet  
LaDonna H. Thompson, Commissioner - Department of Corrections  
Jim Erwin, Deputy Commissioner - Department of Corrections  
Stephanie Appel, HR Director - Justice & Public Safety Cabinet  
Mark Sipek, Executive Director- Personnel Board  
Personnel File

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2010-221  
2013-132

RECEIVED  
NOV 13 2013  
Personnel Board

TERESA FULLER

APPELLANT

VS.

JUSTICE AND PUBLIC SAFETY CABINET,  
DEPARTMENT OF CORRECTIONS

APPELLEE

**AGREED STIPULATIONS OF FACTS**

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Come the Appellant, Teresa Fuller, and Appellee, Justice and Public Safety Cabinet, Department of Corrections, and hereby submit their Agreed Stipulations of Facts in the above-styled appeal.

1. On January 2, 2013, Aramark employee Stan Werderman reported to Western Kentucky Correctional Complex (hereinafter, "WKCC") internal affairs ("IA") that Appellant, Correctional Officer Teresa Fuller, had been texting him during work hours.
2. Following Werderman's report, IA opened an investigation concerning the allegations, conducted by Lt. David Meeks and Sgt. Jennifer Matthews.
3. During the investigation, Lt. Meeks and Sgt. Matthews discovered texts from Fuller's phone - 309-642-7781 - to Werderman's phone on ten (10) separate occasions between 6:29 p.m. and 9:22 p.m. on December 23, 2012.

4. On December 23, 2012, Fuller was at work at WKCC, stationed in the Minimum Security Unit as a yard officer from 3:00 p.m. until 11:00 p.m.
5. Lt. Meeks and Sgt. Matthews also discovered an additional text from Fuller to Werderman, sent at 3:13 p.m. on December 28, 2012.
6. On December 28, 2012, Fuller was at work at WKCC, stationed in at Wall Stand 3 from 3:00 p.m. until 11:00 p.m.
7. Lt. Meeks and Sgt. Matthews reviewed Werderman's online Virgin mobile texting activity log for thirty (30) days prior to January 2, 2013.
8. On January 15, 2013 Sgt. Matthews arrived at Wall Stand 3 around 2:45 and waited for Fuller's arrival at 3:00 p.m.
9. Upon Fuller's arrival to Wall Stand 3 at approximately 3:00 p.m., Sgt. Matthews informed Fuller that she would be conducting a pat down search on Fuller and all items Fuller would be taking to post.
10. Sgt. Matthews' pat down search uncovered two (2) unauthorized items: one (1) cell phone and one (1) cell phone charger; in addition, Fuller turned over one (1) ibuprofen bottle containing unidentified pills.
11. Fuller was then taken to the administrative building's conference room where Lt. Meeks and Sgt. Matthews questioned Fuller about having a phone on post and the unauthorized pills.

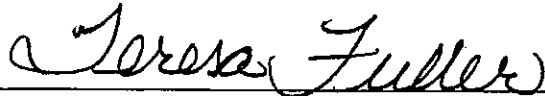
12. Fuller stated to Lt. Meeks and Sgt. Matthews that the ibuprofen bottle contained nine (9) ibuprofen pills, twelve (12) diarrhea pills, and six (6) Hydrocodone pills.
13. Fuller admitted that she was aware that the medications could not go on compound.
14. However, Fuller stated that she was not aware that she could get in trouble for having the medications in Wall Stand 3.
15. Lt. Meeks then asked Fuller if she had ever made telephone calls or used her cell phone while on her job post.
16. Fuller responded, "No, I mean I use my flashlight that's on it, but it's separate from the phone and I've never had to use my cell phone."
17. At the conclusion of the interview with Lt. Meeks and Sgt. Matthews, Fuller submitted to a reasonable suspicion drug test, administered at 3:52 p.m. by Sgt. Matthews and mailed to Phamatech Labs on January 16, 2013.
18. The results from the drug testing company, Phamatech, Inc., were received at the DOC Division of Personnel, revealing a positive drug test for Opiates, Hydrocodone, and Hydromorphone as well as Barbiturates – Butalbital 210ng/mL with the cut off being 200ng/mL – and Phenobarbital – 226ng/mL with the cutoff being 200ng/mL.
19. On January 22, 2013, DOC H.R. Branch Manager Teresa Harris notified WKCC H.R. Administrator Betty Woodward via email that

Fuller's drug test showed positive for Butalbital, Phenobarbital, and Hydrocodone.

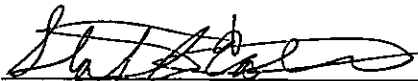
20. Sometime during the week of January 21, 2013, Ms. Woodward then notified Fuller of the positive drug test and requested Fuller to provide proof of prescriptions for the Butalbital, Phenobarbital, and Hydrocodone.
21. Later that week, Fuller provided Ms. Woodward with a list of prescriptions from CVS Pharmacy between January 1, 2012 through December 31, 2012.
22. Fuller's list of prescriptions from CVS was then sent to DOC Branch Manager Teresa Harris.
23. On January 28, 2013 at 3:07 p.m., Ms. Harris notified Ms. Woodward via email that, upon DOC Medical Director Doug Crall's review of Fuller's prescribed medications and test results, the prescriptions provided by Fuller would not result in a positive drug test for Butalbital or Phenobarbital.
24. Ms. Woodward spoke with Fuller on January 29, 30, and 31, 2013, regarding Fuller providing additional documentation for the Butalbital and the Phenobarbital.
25. In addition, on February 1, 2013, Ms. Woodward left voicemail messages on Fuller's 309-642-7781 about Fuller providing additional documentation for the Butalbital and the Phenobarbital.

26. Fuller did not provide any additional documentation before the March 20, 2013 pre-termination hearing.
27. Fuller participated in new employee orientation, on or about May 17, 2011, and received WKCC policy 03-00-04, which details the required procedure for taking all types of medication during an employee's work hours.
28. Fuller's actions were in violation of the following policies and procedures:
- a) CPP 3.11;
  - b) CPP 3.1;
  - c) CPP 3.20;
  - d) WKCC 03-00-04;
  - e) 101 KAR 1:345.

HAVING SEEN AND AGREED TO:



TERESA FULLER, APPELLANT  
406 Cassidy Ave.  
P. O. Box 234  
Fredonia, Kentucky 42411



STAFFORD EASTERLING, ATTORNEY  
Justice and Public Safety Cabinet  
125 Holmes Street, 2<sup>nd</sup> Floor  
Frankfort, Kentucky 40601