



**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2017-013**

**ANTHONY LAMBERT**

**APPELLANT**

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

**JUSTICE AND PUBLIC SAFETY CABINET,  
DEPARTMENT OF CORRECTIONS**

**APPELLEE**

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This matter came on for an evidentiary hearing on June 27, 2017, at 9:30 a.m., EST, at 28 Fountain Place, Frankfort, Kentucky, before the Hon. Stephen McMurtry, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Anthony Lambert, was present at the evidentiary hearing and was not represented by legal counsel. The Appellee, Justice and Public Safety Cabinet, Department of Corrections, was present and represented by the Hon. Angela Cordery.

**BACKGROUND**

1. On November 29, 2016, Scott Jordan, Warden of the Luther Luckett Correctional Complex, LaGrange, Kentucky, informed Anthony Lambert by letter that he was being demoted from Correctional Sergeant to Correctional Officer for three distinct violations of 101 KAR 1:345, Section 1, unsatisfactory performance of duties. More specifically, Warden Jordan charged Lambert with violations of Luther Luckett Policy 09-22-01 and Kentucky Corrections

Policy 9.1, by applying mechanical restraints to “quiet a noisy inmate” on November 13, 2016; violation of Luther Luckett Policy 09-22-01 and Kentucky Corrections Policy 9.1 “failure to use only minimal force to accomplish the purpose for which force was used” and failure to obtain approval prior to “application of a mechanical restraint” on October 31, 2016; and, violation of Luther Luckett Policy 03-01-01, failure to “maintain a professional relationship with an inmate” on November 1, 2016.

2. On January 19, 2017, Lambert filed an appeal of his demotion, alleging: “On November 13, 2016, I Sergeant Anthony Lambert (at the time) was supervising a cell search in 7C when Inmate Thomas Thomas Saylor began to interfere and refused to leave the area. Inmate Saylor 270469 conducted a non-violent demonstration and refused a direct order. Inmate, Saylor was placed in restraints by me placing my right hand on his shoulder and then placing his hands behind his back. This conducted in the presence of four staff members. For this action I was demoted from sergeant to officer.” (sic)

3. The evidence supporting the actual occurrence of these three incidents is undisputed:

(a.) On November 13, 2016, Inmate Saylor complained to Sergeant Paul Young that Lambert had placed handcuffs on him so tightly they caused redness to his wrists. Lambert, at the time, was in Inmate Justin Fields’ cell, in the process of conducting a routine search of the cell. At the same time, Inmate

Saylor was, according to Lambert, interfering with the search by making comments about the search. When Saylor refused to stop commenting, Lambert then told Saylor to come to him. When Saylor refused, Lambert handcuffed him. Captain Tim Forgy and Senior Captain Tim Crutcher conducted an official investigation to obtain the above information. Forgy testified that Lambert told him he placed handcuffs on Saylor "to prove a point" because Saylor "would not stop talking to the other inmates." Forgy said Lambert, at the end of the interview, acknowledged he was wrong for placing Saylor in restraints and not calling the Captain's office. In his defense, Lambert testified that he thought Inmate Justin Fields was "under the influence" and handcuffed Fields because he "did not want the situation to get out of control."

(b.) Captain Patricia Gunter conducted an investigation of the October 31, 2016 incident during which Lambert handcuffed Inmate Lucas Shanks and brought Shanks to Unit Administrator Emily Scholfield's office in a highly agitated state. Gunter testified that Lambert admitted going into Shanks' cell during a search to remove a towel at the end of Shanks' bed that obstructed his view. Gunter explained that Lambert should have asked Shanks to remove the towel and, if he felt threatened, he should have called for backup. She explained that only then would he have been justified in applying handcuffs. Lambert admitted to Gunter that he grabbed "Shanks by the arm and when Inmate Shanks

pulled away [he] removed the clasp from his OC spray like he was going to spray Inmate Shanks.”

(c.) Lieutenant Kerry Pierce testified that on November 1, 2016, he heard Lambert make a statement to Inmate Bobby Hoskins, and Hoskins reply. Pierce said he did not hear the details of the conversation, but sensed that the two were angry, so he stepped between them. In Senior Captain Tim Crutcher’s investigative report, Crutcher relates that Hoskins said Lambert approached him while he was using the KIOSK machine and said, “I heard you were talking about me yesterday. What is your problem?” Lambert testified he had heard that Hoskins had called him a “piece of shit.” Lambert said his approach and statement to Hoskins was done in a joking manner to try to “quell any bad situation.”

4. Webb Strang, former Deputy Warden at Luther Luckett, and Scott Jordan, Warden of the Complex, testified in justification of the decision to demote Anthony Lambert for his efforts to pre-empt with force what he (Lambert) regarded as potentially dangerous situations. Strang and Jordan explained that at Luther Luckett on an average day 50 staff members manage 1200 inmates and, to be successful when so numerically overwhelmed, use of force was the last resort to keep the peace. To control 1200 men, de-escalation of conflict was the accepted theory and practice of prison management and criminal rehabilitation. According to Strang and Jordan, in each incident for which Lambert was charged, he had raised the level of conflict.

5. Strang and Jordan forcefully, logically and emotionally explained that Lambert's actions violated the accepted principles and practices of penology. Entering a cell and grabbing a towel; commands to an inmate to stop talking, followed by handcuffing; leaving an agitated, handcuffed inmate alone in Scholfield's office; approaching an inmate with the statement, "I hear you have been talking about me"; and threatening to use pepper spray all raise the level of conflict according to Strang and Jordan.

#### **FINDING OF FACT**

The testimony of the witnesses for the Cabinet, the findings of the investigative reports introduced into evidence (without objection) and the testimony of Appellant Anthony Lambert all support the finding that Officer Lambert violated the policies of Luther Luckett Correctional Complex and the Department of Corrections.

#### **CONCLUSIONS OF LAW**

1. The evidence introduced by the Department of Corrections constitutes, as a matter of law, that the Appellant, Anthony Lambert, violated 101 KAR 1:345, Section 1, by the unsatisfactory performance of his duties as a Correctional Sergeant.

2. The evidence further establishes that the discipline administered, demotion from Correctional Sergeant to Correctional Officer, was taken with just cause and was not excessive or erroneous in view of all the surrounding circumstances.

3. The evidence further establishes that Lambert was not entitled to progressive discipline as he argued in closing. The policies Lambert violated were so fundamental to a safe and successful operation of a prison facility, and so egregious that progressive discipline was not warranted.

**RECOMMENDED ORDER**

The Hearing Officer recommends to the Personnel Board that the appeal of **ANTHONY LAMBERT V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF CORRECTIONS, (APPEAL NO. 2017-013)** 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).

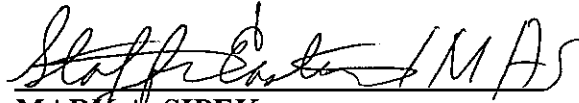
**Any document filed with the Personnel Board shall be served on the opposing party.**

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 Stephen McMurtry** this 28<sup>th</sup> day of August, 2017.

**KENTUCKY PERSONNEL BOARD**

A handwritten signature in black ink, appearing to read 'Mark A. Sipek', written over a horizontal line.

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

A copy hereof this day mailed to:

Hon. Angela Cordery  
Mr. Anthony Lambert