

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2017-018**

RONALD LONG

APPELLANT

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

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

APPELLEE

*** *** *** *** ***

The Board, at its regular November 2017 meeting, having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated September 7, 2017, Appellee's Exceptions and Request for Oral Argument, Appellant's Response to Exceptions, oral arguments and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be altered as follows:

A. **Delete** the Findings of Fact and substitute the following:

1. The Appellant was dismissed by letter dated January 3, 2017, for poor work performance and misconduct for allegedly using threatening and profane language, which created a hostile work environment, and for the restraints of youths without being Aikido certified.

2. The genesis of this entire matter began with a meeting between the Appellant and Gavon Antle on June 27, 2016. This meeting followed a June 24, 2016 email from Antle's supervisor, Margo Figg, in which she indicated to the

Appellant that Mr. Antle would comply with the sign-in/sign-out policy of the facility and would assist the facility, when he was available. Almost immediately thereafter, Antle filed a grievance against the Appellant and a complaint with supervisor Figg because of being asked to follow these policies.

3. Antle followed-up his complaints to Figg with a June 27, 2016 document detailing supposed incidents in the past involving the Appellant at the facility. As a result, an investigation was initiated sometime in late July or early August 2016 by James Gabbard, an Investigator with the Justice and Public Safety Cabinet. Gabbard's testimony revealed that he had interviewed the Appellant and others regarding three primary allegations. Those were: (1) whether the Appellant cursed at some workers; (2) whether the Appellant used restraints improperly without being Aikido certified; and (3) the Appellant's actions toward Gavon Antle.

4. On June 27, 2016, the Appellant entered Antle's office, closed the door and said, "I know you guys don't do shit" back here, and if you do not help out, "I will get you fired." The Appellant did this in a hostile and intimidating manner. Afterwards, Antle went on sick leave because of the stress from which he was suffering. The Appellant denies some of Antle's allegations, however, the Board finds Antle to be the more credible witness on these points.

5. The Appellant admits that in April 2011 he cursed Youth Worker Kimbler by telling him he was the "worst f-word Youth Worker that ever walked into the building." The Appellant also admitted that, on October 4, 2012, he cursed at Social Service Clinician Shawn Stephens to leave Amy Cundiff's office and do some work. This was after Stephens had been directed several times by Tonya Burton to leave Cundiff's office. Appellant also admits he may have used profanity during this incident. The Board finds that the Appellant

cursed Stephens and used profanity, based on the testimony of Tonya Burton and Amy Cundiff.

6. The Board finds that the Appellant stated in May 2016, "If I had a gun, I would shoot myself." In addition, the Board finds that in May 2016, the Appellant stated he was "ready to set fire and burn this place down" as overheard by Todd Davenport.

7. As to poems by Kris Kristofferson sent by email from the Appellant to Amy Cundiff sometime in 2013, the Board finds these were attempts by the Appellant to express his frustrations after a meeting earlier in the day with her.

8. The Appellant allowed his Aikido certification to lapse on March 4, 2012. Nonetheless, he participated in three restraints of residents involving Aikido without the appropriate certification. The Board finds the testimony of Todd Davenport credible on this issue that the restraint from July 2014 was not even necessary. The Appellant failed to have the report from the April 2015 restraint reviewed by a higher-level supervisor for justification, appropriate level of force applied or proper use of Aikido techniques. The Board finds these three restraints to be egregious misconduct by a supervisor of a juvenile facility.

9. The Board finds that the Appellant's involvement in restraints of youths after 2012 constituted poor work performance and misconduct under 101 KAR 1:345. Such actions were violations of DJJ Policy 324, IV(C)(1)(a) and DJJ Policy 505, IV(C)(14)(c). The Board finds these three incidents are sufficiently egregious misconduct to constitute just cause for his dismissal.

10. The Board finds that Appellant used profane language in front of and directed at his subordinates. This language constituted poor work performance and misconduct under 101 KAR 1:345 and violations of DJJ Policy 104, IV(F) and DJJ Policy 103.2, IV(E)(6). The fact that other employees use such language in the facility is not a defense for the Appellant's conduct, as he was the Superintendent and, as such, set the standard for staff behavior in this facility.

11. The Board finds that the Appellee established just cause for the dismissal of the Appellant based on his misconduct and poor work performance in this case.

B. Delete Conclusions of Law and substitute the following:

1. The Board concludes that the Appellee carried its burden of proof to show the Appellant was guilty of poor work performance and misconduct pursuant to 101 KAR 1:345, as found in the Findings of Fact.

2. The Board concludes as a matter of law that the Appellee carried its burden of proof by a preponderance of the evidence to show that the termination of the Appellant was supported by just cause and was neither excessive nor erroneous. KRS 18A.095.

C. Delete the Recommended Order and substitute the following:

IT IS HEREBY ORDERED that the appeal of **RONALD LONG V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE (APPEAL NO. 2017-018)** is **DISMISSED**.

IT IS FURTHER ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer as Altered 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 8th day of November, 2017.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK SECRETARY

A copy hereof this day mailed to:

Hon. Jamhal Woolridge

Hon. Matt Baker

Mr. Rodney E. Moore

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2017-018**

RONALD LONG

APPELLANT

VS.

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

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

APPELLEE

** ** *

This matter came on for an evidentiary hearing on June 28 and 29, 2017, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before the Hon. R. Hanson Williams, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

Appellant, Ronald Long, was present and represented by the Hon. Matt Baker. Appellee, Justice and Public Safety Cabinet, Department of Juvenile Justice, was present and represented by the Hon. Jamhal Woolridge.

This matter involves the dismissal of the Appellant from his position as Juvenile Facilities Superintendent III, with the Agency at the Adair Youth Development Center (AYDC) by letter dated January 3, 2017 (a copy attached hereto and incorporated herein as **Recommended Order Attachment A**).

The Appellant was dismissed for poor work performance and misconduct for allegedly using threatening and profane language, which created a hostile work environment and for the restraints of youths without being Aikido-certified.

The burden of proof was placed upon the Appellee by a preponderance of the evidence to show that the dismissal was neither excessive nor erroneous and was justified under all surrounding circumstances.

BACKGROUND

First Day Of Testimony

1. This matter originated by virtue of an anonymous letter dated July 12, 2016, received at the Cabinet's office in Frankfort.

2. The Appellee's first witness was **Gavon Antle**. He works at the Adair Youth Development Center (AYDC) as a Detention Alternatives Coordinator (DAC). He has been employed for approximately 17 years. His duties include working with youth who have lower-level status to place them in group homes in approximately 25 counties. He reports to Branch Manager Margo Figg, based in Louisville.

3. The witness explained that his office is within the AYDC, where the Appellant is Superintendent. However, the Appellant has never been in his supervisory chain-of-command.

4. Antle testified that, in his opinion, the Appellant has a management style which includes the use of fear and intimidation. On or about June 27, 2016, the witness testified that he was requested by the Appellant to begin following the facility's Key Control Policy. This is a policy where each employee must sign in and out for the keys to their office. He was also requested to turn over his work schedule to the Appellant. **[Hearing Officer Note: A related chain of emails shows that the AYDC was continuously short-staffed and the Appellant had requested of Antle's supervisors that he and another DAC provide help within the facility when it did not interfere with their duties. (Appellee's Exhibit 1).]**

5. As a result of the Appellant's request to Margo Figg, this witness was then directed by her to sign in and out, and to help the facility when it did not conflict with his work schedule.

6. Antle then testified that on June 27, 2016, the Appellant entered his office, closed the door, and said, "I know you guys don't do shit" back here and if you do not help out, "I will get you fired." The witness considered this to be hostile and intimidating. Thereafter, he notified supervisor Figg by a June 27, 2016 email (Appellee's Exhibit 2). The witness went on to state that shortly afterwards, he went on sick leave because of the stress he was suffering. Thereafter, on his first day back, he related that he was asked to train to operate the Control Room. He stated that he refused because he had his other work to catch up on. The assistance with the Control Room had been part of the Appellant's earlier request to Margo Figg.

7. It was apparent that the witness viewed that his needing to comply with the Key Control Policy, the sign-in/sign-out sheet and having to assist at the facility when available, to be what he considered a hostile work environment.

8. On cross-examination, Antle admitted that the sign-in/sign-out sheet shows the punctuality of employees. He stated that the facility employees had been required to do this, but not him until the June communication between the Appellant and Margo Figg.

9. The witness also clarified his chain of command by stating that he first reports to Margo Figg, then Monica Edmonds, then Deputy Commissioner Cook. He added that some of

his duties take him out to court in various counties and agreed that someone needed to know his schedule at all times.

10. Antle further agreed that the required head-counts of the youth were necessary to ensure knowledge of their whereabouts. He also agreed with an analogy of "captain of the ship," agreeing that the Appellant was analogous to this and bore ultimate responsibility. As a result, he agreed the Appellant needed to have knowledge of things in the facility.

11. Lastly, the witness confirmed that his supervisor, Figg, told him to follow the sign-in/sign-out procedures, and this was not to be considered retaliation. The witness then denied being the author of the anonymous letter which initiated the investigation.

12. Appellee's next witness was **John Pickett**. He has been employed as a Juvenile Services Specialist, known as a Community Worker, for approximately ten years. Prior to 2014, he was employed at the AYDC, where he was supervised by the Appellant.

13. He testified that on June 27, 2016, he was on the premises when an incident between the Appellant and Antle occurred. He stated that although the door was closed to Antle's office, he could hear a loud conversation between the Appellant and Antle. He heard no words, but testified the conversation was loud. The witness also testified that, after the meeting, Antle approached him and said, "That SOB threatened me." He stated that Antle appeared flushed.

14. Asked to describe Appellant's managerial style, he stated that, in his previous experience, the Appellant had appeared quick-tempered and bullyish.

15. On cross-examination, Pickett agreed that it was a better management style to "chew out" an employee in private, as did the Appellant, rather than embarrass him in public. He also noted that he had heard the word "shit" used in the facility before, and it was not uncommon. He also agreed that Superintendent Long wanted results from his employees.

16. Appellee's next witness was **Margo Figg**. She is the Agency Branch Manager for the Alternative Services Branch. Her duties include supervising 11 Detention Alternatives Coordinators (DACs), including Antle. She testified that he is considered to be a good employee and there have been no complaints lodged against him prior to 2016.

17. She stated that the DACs in various regions often cover for each other when one is on leave and they all have court cases to attend. She monitors their time and cases by an electronic shared calendar. She also relies on feedback from the Superintendents in the facilities where they work.

18. She testified that she was aware of the Appellant's request for Antle's itinerary to see if he could assist at the facility. She related that she told the Appellant that Antle often covered for another DAC, and it would be hard for him to give much assistance, but she would try to see that he made himself available when he could. (Appellant's Exhibit 6)

19. Ms. Figg also testified that she knew of the Appellant's request for Antle to work Control at the facility whenever possible, and was aware of this request upon Antle's return from sick leave. She did, however, forward Antle's concerns about working with the Appellant to her supervisor, Deputy Commissioner Cook.

20. On or about July 11, 2016, Figg emailed Supervisor Edmonds that she felt Long's requests of Antle were becoming almost borderline harassment. (Appellee's Exhibit 8). Figg also introduced Appellee's Exhibit 10, a July 13, 2016 memo from her to Supervisor Edmonds. In this, she related an incident where the Appellant was still insisting that Antle follow the Key Control Policy, and citing days on which he did not do so. This witness considered the response by Appellant as a sign that he was trying to get Antle into trouble with his supervisors.

21. On cross-examination, the witness admitted that she has never met the Appellant, nor spoken to him by phone, to get his side of the story. She also confirmed that she had directed Antle to follow the sign-in /sign-out key policy.

22. Figg also admitted that she believed in the "captain of the ship" philosophy and stated that the Appellant had a right to know what was going on in his facility. She also confirmed earlier testimony that youth "head-counts" are important.

23. Appellee's next witness was **Tonya Burton**. She is employed at the AYDC currently as the Interim Juvenile Facility Superintendent II. For the previous three years, she was the Assistant to the Appellant, who supervised her.

24. This witness testified as to the Aikido hold technique, which is required of all staff. This is a safety restraint used on youths who are out of control. She stated that all staff must keep their certification, and no one is allowed to restrain any of the youth without having that.

25. Burton introduced Appellee's Exhibit 11, a Recertification Skill Test involving Aikido training. This exhibit shows that the Appellant was last certified in 2010. The witness added that if one does a restraint, he must complete a written incident report, which she reviews.

26. The witness added that a double key stand, involving both arms of a youth, is not an allowable restraint. She added that on April 29, 2015, the Appellant was involved with resident Q in such a restraint. The witness then related some incidents in 2013 and introduced

Appellee's Exhibit 12. This was her documentation for several days in March 2013 in which she memorialized comments made by the Appellant; that he considered her beautiful; that he felt that she had "no respect" for him as a supervisor; and he did not think he needed to be her supervisor. Apparently, this was said in a meeting between Burton, the Appellant and Director Dewayne Mills. After this, supervision of the witness was changed to Mills, who told her to have no other contact with Appellant.

27. Burton also related receiving, later in the Spring 2013, a text message which was a poem by a well-known author. She related that this poem made her feel somewhat uncomfortable and afraid; however, she testified, there were no further problems after the Appellant again became her supervisor.

28. However, the witness then related a previous incident in 2010 or 2011, when she had been requested by him to retrieve some information or answers for him. She stated that on returning to the unit, the Appellant was in a meeting and she did not want to interfere. Afterward, she stated he was angry and told her to "get her f—king ass in his office," because she had not responded quickly enough.

29. Burton also related an incident in which she had heard him tell employee Shawn Stephens, found sitting in Amy Cundiff's (now Keys) office frequently, to go to his office and do "your f—king job." She also related a conversation she overheard with the Appellant and coworker Robbie Kimbler. She related that the Appellant had appeared irritated because he felt that Kimbler had disrespected Burton's directives to leave Cundiff's office. Shortly afterward, she overheard the Appellant tell Kimbler, "You are the worst f—king youth worker to ever be here." The witness then added that she felt that the Appellant had used the Key Control issue in order to harass Gavon Antle.

30. On cross-examination, the witness related that she had worked with the Appellant for approximately 12 years at AYDC. She was in a prior position until 2013, when the Appellant recommended her to be Assistant Superintendent. Thereafter, she testified the relations between the two of them were good, until the Gavon Antle incident in June 2016.

31. Burton also related a singular 2013 conversation in which they each emotionally let down their guard and, in essence, "bared" their souls to each other. The witness was quick to confirm that the Appellant had never touched her inappropriately.

32. The witness also stated that she had heard employees, other than the Appellant, use the "f-word" in the facility. The witness also confirmed that she and several others received a January 12, 2016 email from the Appellant, advising them to treat the writing of incident reports involving restraints honestly and candidly. She also stated the Appellant had never hidden from her the fact that he was not currently Aikido certified.

33. The Appellee's next witness was **James Roberts**. He has been a Youth Services Program Supervisor for the past seven years and employed 16 years total at AYDC. He reports to Superintendent Long.

34. He stated his duties involved dealing with youth who have anger issues and who sometimes must be restrained. He confirmed the need for Aikido certification.

35. In his opinion, Roberts felt the Appellant intimidated some, while being at times quick-tempered. He observed some of the language directed to Robbie Kimbler and confirmed Appellant had called him "a piece of shit."

36. The witness also recalled a May 2016 meeting in the Appellant's office with himself and Tonya Burton. At the conclusion of the meeting, Appellant had stated, "If I had a gun, I would shoot myself." He does not know whether this was out of frustration, although he and Burton later commented about it.

37. The Appellee's next witness was **Amy Cundiff** (now Keys). She has been employed as the AYDC Fiscal Manager for the previous 17 years. She has worked there during the time Appellant was Assistant Superintendent and Superintendent.

38. She related an incident of October 4, 2012, during which the Appellant addressed a worker, Shawn Stephens, who was sitting in her office. Apparently thinking Stephens had been there for a while, she stated the Appellant told him to "get the f—k out of Administration and do some work somewhere." She added that she felt the Appellant's fists were balled during this conversation.

39. Next, Cundiff testified that she felt the Appellant's anger was triggered by any perceived disrespect shown toward either him or Tonya Burton. She feels that he was overprotective of Burton.

40. The witness also testified regarding receipt of a July 2, 2013 email sent to her and others. She confirmed these two missives were authored by Kris Kristofferson and distributed by the Appellant. Apparently, there had been a meeting earlier in the day in which the Appellant felt frustrated and had sent these two poems as an indication of his feelings. She stated she was confused and worried about the language on the second page, which stated, "p.s. — This is not my resignation letter, but if I happen not to come back...it'll do."

41. The Appellee's next witness was **David Hare**. He has been employed at AYDC for four and one half years, the last two and one half years as a Youth Worker Supervisor. He confirmed that Aikido training is needed to restrain youths and staff are not supposed to touch a youth without being certified.

42. He related an incident in November 2015, in which he was called to address a youth in the gym who was somewhat belligerent. This witness went to get a counselor to accompany him, but as the Appellant was nearby, he accompanied Hare. He related that when they arrived in the gym, the youth was noisy, the Appellant addressed the youth and then restrained him by putting him on the floor.

43. The Appellee's next witness was **Todd Davenport**. He has been employed at AYDC as a Social Service Clinician for the previous 16 years. He has served with the Appellant. He testified he heard the Appellant's concern at one point about "burning the building down." He also confirmed the need for Aikido certification for staff members.

44. The witness also related a July 2, 2014 incident in which Youth B was upset and went down the hall to his room. Although Youth B was told to stop, Davenport related that the Appellant had put his hands on the youth to make him comply with the instructions to stand up.

45. On cross-examination, the witness confirmed he did not document to anyone the "burning building" comment, and that he was not unnerved by it.

46. The Appellee's next witness was **James Gabbard**. He has been an Investigator with the Justice Cabinet for the past four and one half years. Prior to that, he was a longtime police officer in the Fayette County.

47. He conducted the investigation into this matter following the receipt of an anonymous letter dated July 12, 2016, by the Department of Juvenile Justice.

48. He testified that he interviewed the Appellant regarding the letter, and primarily focused on three complaints contained therein. These were:

- (1) The Appellant had cursed out people at the facility, including Shawn Stephens.
- (2) The use of restraints and proper certification.
- (3) A threat toward Gavon Antle.

49. Gabbard then identified Appellee's Exhibit 16, a July 28, 2016 interview between himself and the Appellant. The witness stated the Appellant told him he had long suspected Antle of not working his actual hours. He also testified the Appellant never mentioned to him the fact that Antle had raised his voice toward him during the June 19, 2016 incident.

50. The witness next introduced Appellee's Exhibit 17. (**Hearing Officer Note:** This exhibit was admitted **under seal**.) The witness stated he had reviewed the incident report and still photographs involving a restraint of Youth Q. The incident report of April 29, 2015, shows the Appellant, along with approximately five other staff, needed to secure a resident who would not comply with their directives. The photos initially show Appellant and Mr. Mullins placing hands on Youth Q to initiate a basic escort technique. Upon receiving continued resistance, the Appellant and Mullins were able to get the Youth to the floor. At that point, other staff take over and maintain ACT (an Aikido Control Technique) on the youth. Appellant no longer had any part in the incident.

51. On cross-examination, Gabbard admitted that the still photographs showed employees Irvin and Hafley performing the ACT 1 control.

52. Regarding the investigation into cursing directed at Shawn Stephens, a review of Gabbard's interview with Appellant reveals this incident occurred on October 4, 2012. In the interview, Appellant relates he had gone to Amy Cundiff's (Key's) office, where Stephens, Tonya Burton and Ms. Miller were present. Appellant further related that Supervisor Burton had previously asked Stephens to get out on the floor and get to work. He further related that, after a period of time, he came back and Stephens was still in the office and he (the Appellant) told Stephens to get out and go do some work somewhere. In the interview, the Appellant confirmed he was angry that he had to confront Stephens again about refusing Burton's instructions. The Appellant also addressed certain poetry and song lyrics, which he sent to staff members. These were primarily by Kris Kristofferson (Appellee's Exhibit 13 and 15). Appellee's Exhibit 15 is a July 2, 2013 memo sent from the Appellant to Superintendent Dewayne Mills. The Appellant described this as being sent because, following a staff meeting, he shared with Mills that he did not feel Tonya Burton had respected him as a supervisor. He then attempted to discuss this with her, whereupon she broke down and cried. He related that Mills told him not to talk with her any further, and he sent these lyrics as a way to clear up things with Tonya Burton.

53. He also stated he received an email from Conn on July 13, 2016, telling Appellant to "stand down" regarding Antle, but to keep track of his comings and goings, to which Appellant replied, on July 19, 2016, that he had given up on Antle's assistance.

54. The Appellee's next witness was **Tim Conn**. He has been employed as the Facilities Regional Administrator of the Southeast Region with the Agency for the previous two years. His duties include supervising seven facilities and those Superintendents. He added that he had been the Appellant's supervisor for approximately 18 months prior to his dismissal.

55. The witness further testified that he was the one who initiates disciplinary actions up the chain of command, and introduced Appellee's Exhibit 18, a September 30, 2016 memo to

the Commissioner requesting disciplinary action against the Appellant. This memo had no recommendation as to discipline.

56. This Request for Disciplinary Action (RDA) (Appellee's Exhibit 18) contains a list of DJJ policies and standard operating procedures supposedly violated by the Appellant. These are Appellee's Exhibits 19 through 25.

57. Conn also identified Appellee's Exhibits 26 and 27. These are emails between he and the Appellant regarding the attempt to have Gavon Antle assist at the facility. Ultimately, Conn directed the Appellant, on June 22, 2016, to stand down for now, but to continue to track his comings and goings as to whether he is following the facility SOP of signing in and out and Key Control.

58. On cross-examination, the witness confirmed there had been no negative job performance evaluation given to the Appellant for the year 2015. He stated Appellant was doing a good job.

59. Conn also agreed that responsibility and accountability are two of the most important things in a youth facility. He acknowledged that the Superintendent there should have the authority for those he supervises. The witness also agreed that for the entire 18 months he supervised the Appellant, there was a constant issue of understaffing. He also added that he saw nothing wrong with the concept of a sign-in/sign-out sheet to ensure accountability.

Second Day Of Testimony

60. The Appellee's next witness was **Cynthia Watson**. She has been employed with the DJJ Personnel Branch since 1998, and has been a Human Resource Branch Manager since 2015. She was a previous EEO Counselor, and also oversees the payroll, as well as handling requests for discipline, drafts the disciplinary letters and conducts the pre-termination hearings.

61. As a part of the decision-making process, she indicated she examines previous disciplinary actions, and made a recommendation for dismissal in this case up the chain of command.

62. Watson introduced Appellee's Exhibit 30, the dismissal letter of January 3, 2017.

63. In deciding upon a recommendation for dismissal, Watson stated she had followed the theory of progressive discipline by noting the Appellant had a previous written reprimand and a one-day suspension. The one-day suspension was October 2, 2006, against the

Appellant while he was a Youth Services Program Supervisor at AYDC for supposedly using unnecessary force against a youth.

64. On cross-examination, the witness confirmed she had never interviewed the Appellant and knew nothing about the circumstances surrounding the one-day suspension letter in 2006. She also confirmed she had not taken into account there had been an interval between 2006 and 2016 of action requested against the Appellant. She also confirmed that she did not factor any promotions received during that period, or performance evaluations, into account in making her decision.

65. The Appellee closed.

66. **Appellant Ronald Long** called himself as his first witness. He testified he has a Bachelor's Degree in English from the University of Kentucky. He began work at the Department of Juvenile Justice in 1999, and has served for approximately 17 years.

67. From 1999 through 2000, he was based in Louisville, but worked in Campbell County. He was among those who opened the AYDC in late 2000, and has been there since.

68. Long described the facility as a maximum security facility for youth who have disrupted other facilities. As Superintendent, he customarily is in charge of between 10 to 96 residents.

69. He detailed his work history by stating that, when he began at the AYDC, he started as a Youth Worker Supervisor. Since 2006 he has been promoted twice, most recently to the position of Facility Superintendent. In that job, he reported to Tim Conn, the Facilities Regional Administrator.

70. The Appellant freely admitted that he had received an earlier one-day suspension on October 2, 2006, for using excessive force. He also freely admitted that he had, at times, used curse words, although not directed at anyone in particular.

71. Long stated that he has received no negative evaluations during his tenure as Facility Superintendent. Addressing other allegations in the dismissal letter, the Appellant freely admitted that the incident with Robbie Kimbler had occurred, and he reacted as he did because Kimbler had thrown Tonya Burton's papers on the floor in dismissal. Appellant stated that he had then challenged him and told him he was the worst f—king youth worker in the building. He also added that he later apologized to Kimbler for his use of words.

72. Regarding the October 14, 2012 incident with Shawn Stephens, the Appellant related that Tonya Burton had initially told Stephens to do his job and to leave Cundiff's office.

Upon Stephens' failure to do so, Appellant stated he had reinforced it and told Stephens to get out and do some work. He denied charging Stephens in a threatening manner.

73. Asked to describe his work ethic, the Appellant stated that he only wanted to help youth, but after a while he seemed to have been beaten down by the job because of the insubordinate workers refusing to do their jobs.

74. The Appellant also addressed the May 2016 incident in which he supposedly said, "If I had a gun in this building, I would end this." He stated that this happened during a meeting, and was out of frustration because of the failures of others to perform the correct head counts.

75. The Appellant also addressed a supposed May 2016 incident in which he said, "If I had a match, I would set fire" to this facility. First, he stated he had no recollection of making this comment, but if he did say it, he was joking because of frustration.

76. The Appellant then addressed the June 27, 2016 incident with Gavon Antle, in which he supposedly threatened Antle. He stated that he confronted Antle because Deputy Commissioner Cook had previously suggested that he could call upon James Bailey and Antle to help out with a facility staff shortage when they were free. The Appellant then testified that, upon calling upon the two, Bailey, although not happy, had gotten on board and provided assistance. He stated that Antle had resisted even working in the Control Room, which was a job not directly relating to the youth. Because of Antle's resistance, Appellant stated that he had never asked Antle afterward to provide assistance. He also admitted telling Antle that "I do not think you do a lot back here."

77. The witness further explained by saying that Antle's supervisor, Margo Figg, and others up the chain, had formed the idea that he was harassing Antle by wanting him to do the job. This included complying with the sign-in/sign-out sheet and the Key Control Policy.

78. Appellant then addressed his Aikido certification, by stating that after 2010, he was sometimes partially certified. He also admitted that when he was not fully certified, he had invoked three restraints on Youth Q, Youth J and Youth B. He added that these restraints did not involve a need to restraint, and there were no injuries or bad treatment to the youth.

79. Also addressing the allegation that things had been "kept in-house" at the facility, the Appellant stated that the previous Superintendent, Dewayne Mills, had kept things from Frankfort, and Appellant had protested this policy.

80. The witness cited, as support for this position, Appellant's Exhibit 1, a January 12, 2016 email sent to Tonya Burton, James Roberts and other staff, in which he had insisted upon full and honest disclosure of any incidents which should be placed in the incident reports.

81. On cross-examination, no useful information was provided.

APPLICABLE REGULATIONS AND POLICIES

1. DJJ Policy 102. Code of Ethics.

I. **Policy.** The Department of Juvenile Justice (DJJ) shall expect from staff honesty, integrity, respect for the dignity and individuality of human beings, and a commitment to professional and compassionate service.

IV. **Procedures.**

C. Relationships with colleagues shall be of such character to promote mutual respect within the profession and improvement of its quality of service.

...

J. Staff shall follow the Executive Branch Ethics Code. Further, the "Guide to the Executive Branch Code of Ethics" published by the Executive Branch Ethics Commission shall provide staff additional guidance. DJJ staff shall be directed to take available and necessary action to follow these guidelines and avoid even the appearance of unethical conduct.

...

N. Workplace violence shall be prohibited and constitute grounds for disciplinary action and referral for criminal prosecution.

2. DJJ Policy 103.2, Sexual Harassment and Anti-Harassment.

I. **Policy.** Any form of harassment shall not be tolerated by the Department of Juvenile Justice (DJJ). DJJ shall prohibit threatening, offensive, or unwelcome conduct at work and when staff is representing DJJ.

...

IV. **Procedures.**

E. In addition to the conduct prohibited by 29 C.F.R. § 1604.11 other prohibited behavior shall include:

...

6. Threatening, demeaning, or offensive conduct directed toward an individual.

3. **DJJ Policy 104. Code of Conduct.**

I. **Policy.** Staff, volunteers, interns, and contract personnel shall conduct themselves in a professional manner. All persons shall be aware that their personal conduct reflects upon the integrity of the agency and its ability to provide services to youth.

...

IV. **Procedures.**

B. Staff shall perform their work assignments competently and in a professional manner. It is the responsibility of each staff to know and act in accordance with department policy and procedures.

...

F. Loud, abusive, or profane language and boisterous and unprofessional conduct shall not be tolerated. Staff shall refrain from making comments that are critical of colleagues or the agency.

...

U. Staff shall protect the individual safety of youth and themselves through the use of approved controlling techniques utilizing no more than the absolute amount of force necessary to diffuse a confrontational situation. Staff shall only use controlling techniques in which they have been certified by the Division of Professional Development.

...

V. All persons shall take appropriate precautions in dealing with youth to prevent allegations of inappropriate verbal communication, written communications, sexual contact or abuse of any type.

...

X. All persons shall act in a manner that provides youth with a positive role model.

Y. All persons shall be expected to maintain a professional relationship with youth at all times. The following rules help delineate this relationship and prevent complications in treatment of youth.

4. **DJJ Policy 208. Youth Rights.**

IV. **Procedures.**

...
H. Youth shall be treated in a humane manner and shall have the right to be protected from exploitation, neglect, physical, sexual, and emotional abuse. This shall include corporal punishment, intentional injury, use of intimidation, threatening, or abusive language toward the youth, either verbally, in writing, or by gesture. Any suspected abuse or neglect of youth shall be reported in accordance with KRS 620.030 and DJJPP Chapter 1 Policy (Staff Code of Ethics).

5. **DJJ Policy 318. Behavior Management.**

...
I. **Policy.** Staff shall utilize behavior management methods and techniques to promote an environment that supports treatment and teaches new skills to youth. Staff shall respond to youth behavior in a controlled, well-disciplined, and safe manner.

...
IV. **Procedures.**

A. Staff shall model appropriate behavior.

...
2. Staff shall present themselves as a role model for youth according to the DJJ Employee Code of Ethics and Employee Code of Conduct.

...
D. Staff shall utilize least restrictive behavior management techniques that will safely manage the behavior of youth.

...

F. Staff shall utilize approved and trained methods for the management of aggressive youth.

1. Staff shall utilize de-escalation techniques in an attempt to diffuse situations that occur, related to the management of aggressive youth. If any of the above skills are not applicable or successful, staff may utilize restraint techniques per DJJ policy.

...

6. **DJJ Policy 324. Restraints.**

I. **Policy.** Staff shall utilize appropriate behavior management methods and techniques to promote a safe and secure program culture. Staff shall be permitted to use approved methods of restraint for youth in instances of justifiable self-defense, protection of youth or others, protection of property, prevention of escape, or to maintain or regain control.

...

IV. **Procedures.**

...

C. Three (3) types of restraints approved by the department shall be:

1. **Physical Restraint**

a. Staff shall utilize only agency approved and trained in skills in the physical management of aggressive youth.

...

7. **DJJ Policy 505. Training and Requirements, Special Staff Groups and Specialized Task Training.**

...

IV. **Procedures.**

...

C. **Orientation and Pre Service Training.**

...

14. Youth Worker Supervisors, Youth Service Program Supervisors, and Superintendents I, II, and III shall be considered administrative staff.

...

c. Administrative staff shall complete Physical Skills training.

FINDINGS OF FACT

1. The Appellant was dismissed by letter dated January 3, 2017, for poor work performance and misconduct for allegedly using threatening and profane language, which created a hostile work environment, and for the restraints of youths without being Aikido certified.

2. The genesis of this entire matter began with a meeting between the Appellant and Gavon Antle on June 27, 2016. This meeting followed a June 24, 2016 email from Antle's supervisor, Margo Figg, in which she indicated to the Appellant that Mr. Antle would comply with the sign-in/sign-out policy of the facility and would assist the facility, when he was available. Almost immediately thereafter, Antle filed a grievance against the Appellant and a complaint with his supervisor Figg because of being asked to follow these policies.

3. Antle followed-up his complaints to Figg with a June 27, 2016 document detailing supposed incidents in the past involving the Appellant at the facility. As a result, an investigation was initiated sometime in late July or early August 2016 by James Gabbard, an Investigator with the Justice and Public Safety Cabinet. Gabbard's testimony revealed that he had interviewed the Appellant and others regarding three primary allegations. Those were: (1) whether the Appellant cursed at some workers; (2) whether the Appellant used restraints improperly without being Aikido certified; and (3) the Appellant's actions toward Gavon Antle.

4. Antle was asked to assist in the Control Room one time upon his return from leave, whereupon he protested to Figg. The Appellant testified that he never asked Antle again for any assistance. Appellant does not deny that he felt that Antle did not perform a great deal of work in his position, but denies that he ever threatened to have him terminated.

5. After Antle's protests and the Appellant's further reporting to Figg upon the comings and goings of Antle, apparently Figg believed that Antle was being harassed by the Appellant.

6. The Appellant admits that in April 2011 he cursed Youth Worker Kimbler by telling him he was the "worst f—word Youth Worker that ever walked into the building." The

Appellant also admitted that, on October 4, 2012, he cursed at Social Service Clinician Shawn Stephens to leave Amy Cundiff's office and do some work. This was after Stephens had been directed several times by Tonya Burton to leave Cundiff's office. Appellant also admits he may have used profanity during this incident.

7. Regarding a hostile work environment, the Hearing Officer finds that the statements made by the Appellant in May 2016 that "if I had a gun, I would shoot myself" and his May 2016 statement overheard by Todd Davenport that he was "ready to set fire and burn this place down," were comments made out of frustration; neither witnesses James Roberts nor Tonya Burton expressed any concern over these statements. Likewise, Todd Davenport filed no documentation and stated he was not unnerved by this statement.

8. As to poems by Kris Kristofferson sent by email from the Appellant to Amy Cundiff sometime in 2013, the Hearing Officer finds these were attempts by the Appellant to express his frustrations after a meeting earlier in the day with her. The Hearing Officer finds there was no intent to cause reasonable concern on the part of Amy Cundiff as to these.

9. Regarding the improper use of restraints, the Appellant admits he lacked full certification after 2012. Multiple witnesses testified, and the Hearing Officer finds, that the Appellant acted improperly in placing hands upon a youth or assisting in restraint of a youth without being certified. Regarding the restraint of April 29, 2015, involving Youth Q, the Hearing Officer finds that a review of the record shows the Appellant and employee Mullins initially used a basic escort technique until others arrived. Two other employees then performed an ACT I control technique.

10. The Hearing Officer has considered the testimony of Tim Conn, the Facilities Regional Administrator of Appellant's region. He testified that he recommended disciplinary action, as opposed to a Major Disciplinary Action, which is ordinarily used in allegations of this magnitude. Conn also testified that he made no recommendation accompanying his request and further stated the Appellant was doing a good job as Superintendent.

11. Cynthia Watson was the Branch Manager who made the recommendation for dismissal up the chain of command. She testified she based her decision on a previous written reprimand (date unknown), and a one-day suspension in October 2006. She further stated she was not familiar with the circumstances surrounding the one-day suspension. She also stated she had never met with Appellant to get his side of the story. Watson also said that she did not factor in the fact that Appellant had received two promotions since his employment at the facility and did not examine his evaluations; neither did she take into account the interval of time between the 2006 suspension and these events in 2016.

12. It is also noteworthy that Supervisor Margo Figg never met with Appellant to obtain his side of the story.

13. Relative to Appellant's occasional use of profanity, Tonya Burton testified that she had overheard several employees of the facility use the "f-word." The Hearing Officer also takes into account the fact that the facility which the Appellant supervised was designed to handle troubled youths which other facilities have been unable to help, and further, other testimony shows this facility was continuously short staffed.

14. The Hearing Officer also finds it noteworthy that Supervisors Margo Figg and Tim Conn both endorsed the philosophy of the "captain of the ship," meaning a Superintendent, in this case, shares the responsibility and accountability of the facility and is entitled to receive same from those whom he supervises. Interestingly, this same philosophy was also endorsed by Gavon Antle.

15. The Hearing Officer also finds, according to the uncontested testimony of the Appellant, that he helped with the development of the Adair Youth Development Center. He has served there 17 years and been promoted twice, the last promotion being to Superintendent. Also, the Appellant has had no negative evaluations.

16. Tonya Burton related an incident in 2010 or 2011 when the Appellant apparently cursed at her when she had not retrieved some information quickly enough for him. However, the Appellant recommended Burton for a promotion in 2013, and she testified she has had no other problems with the Appellant since he became her supervisor.

17. Regarding an unrelated allegation that Appellant had attempted to keep all problems "in house" and from reaching Frankfort, Burton testified that she and others received a January 12, 2016 email from the Appellant, advising them to treat the writing of incident reports involving restraints honestly and candidly.

18. In summary, the Hearing Officer finds that the Appellant's involvements in any restraints of youths after 2012 did constitute poor work performance and misconduct under 101 KAR 1:345. Such actions were violations of DJJ Policy 324, IV(C)(1)(a) and DJJ Policy 505, IV(C)(14)(c).

19. The Hearing Officer also finds the Appellant, at times, did use profane language, although not threatening language, in front of his subordinates. This language constituted technical violations of DJJ Policy 104, IV(F), and DJJ Policy 103.2, IV(E)(6), but did not constitute a hostile work environment. The Hearing Officer also finds that such language was not unusual in that facility and, apparently, was not used in a manner which a reasonable person would think was threatening.

20. The Hearing Officer also finds that there was no hostile work environment created by the fact the Appellant sent assorted poems and emails in 2013 to Amy Cundiff and Tonya Burton. These were intended only to represent his frustration with the job and were non-threatening to either of them.

CONCLUSIONS OF LAW

1. The Hearing Officer concludes as a matter of law that the Agency carried its burden of proof to show the Appellant was guilty of poor work performance and misconduct pursuant to 101 KAR 1:345, as found in paragraphs 18 and 19 of the Findings of Fact.

2. The Hearing Officer concludes as a matter of law that the Agency failed to carry its burden of proof by a preponderance of the evidence to show the termination of the Appellant was neither excessive nor erroneous. The Hearing Officer concludes this, especially after taking into account the testimony of Tim Conn and Cynthia Watson. It is apparent that Gavon Antle over-reacted to the Appellant's requests for assistance, thus initiating the chain of events. It is also apparent that some in the Frankfort offices formed the idea that Appellant was harassing Antle, when he was merely trying to carry out actions which had been approved by Margo Figg. It is also important to remember that no one disputed the "captain of the ship" philosophy, which enabled the Appellant to ensure accountability within his own facility, where he has worked for 17 years.

RECOMMENDED ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer recommends to the Kentucky Personnel Board that the appeal of **RONALD LONG VS. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE (APPEAL NO. 2017-018)** be **SUSTAINED to the extent** the dismissal of the Appellant be rescinded, that he be reinstated to his previous position and further awarded lost pay and benefits and that he otherwise be made whole. However, the Appellant shall be suspended from duty and pay for a period of twenty (20) days, said suspension having already been served by virtue of his termination, and any award for lost pay and benefits should be reduced by said twenty-day period. Further, the Appellee is ordered to reimburse Appellant for the amount of pay that was withheld from him because of the dismissal less the twenty-day suspension, and to otherwise make Appellant whole. **KRS 18A.105, 18A.095(25), and 200 KAR 12:030.**

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).

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 R. Hanson Williams** this 17th day of September, 2017.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Jamhal Woolridge
Hon. Matt Baker



59523 / 30038760
Long, Ronald /
eff: 1/4/17

JUSTICE AND PUBLIC SAFETY CABINET

Matthew G. Bevin
Governor

Department of Juvenile Justice
1025 Capital Center Drive, 3rd Floor
Frankfort, Kentucky 40601-8205
Phone (502) 573-2738
Fax (502) 573-4308
www.kentucky.gov

John C. Tilley
Secretary

Carey D. Cockerell
Commissioner

January 3, 2017

Ronald Long

Via hand-delivery

PERNR:

Dear Mr. Long:

After considering the comments made at your pre-termination hearing held on December 22, 2016, it has been determined that there is no sufficient reason to alter the notice of intent to dismiss, dated November 16, 2016.

Therefore, based on the authority of KRS 18A.095 (7), and 101 KAR 1:345, Section 2, you are hereby notified that you are officially dismissed from your position of Juvenile Facility Superintendent III, with the Department of Juvenile Justice, at Adair Youth Development Center, effective close of business on Tuesday, January 3, 2017.

In accordance with 101 KAR 1:345, Section 1, you are being dismissed from your position for the following specific reasons:

Poor Work Performance and Misconduct, i.e., as reported by Southeastern Regional Division Director Tim Conn, you demonstrated poor work performance and misconduct by use of threatening and profane language directed at subordinate staff which created a hostile work environment and restraints of residents without being Aikido certified. Four (4) separate investigations into the allegations of your threatening and using profanity toward subordinate staff and lacking Aikido certification while performing restraints of residents. The allegations were substantiated by the investigations, and the findings contained in the reports IIB IA-301-16, dated September 7, 2016; IIB #2689-16, dated September 7, 2016; IIB #2691-16, dated September 16, 2016; and IIB #2692-16, dated September 16, 2016.

For the investigation IIB IA-301-16, Investigators James Gabbard and Ed Jewell interviewed nineteen (19) staff witnesses and you, and reviewed documentation related to the allegations of your creating a hostile work environment. As a result of the investigation, it was determined that:

Recommended Order
Attachment A

**APPELLEE'S
EXHIBIT**

2530

- In April 2011, you cursed former Youth Worker III Robbie Kimbler and told him he was the "worst fucking youth worker that ever walked into the building" and that he "doesn't see how his mother could produce such a fucking loser". Your comments to Mr. Kimbler were overheard by several supervisory level staff. In your statement responsive to the request for major corrective action, you admitted that you told Mr. Kimbler that "he was the worst fucking youth worker in the facility", and admitted your comments were inappropriate.
- On October 4, 2012, after former Social Service Clinician I Shawn Stephens had been directed several times by former Treatment Director Tonya Burton to leave Fiscal Officer Amy Cundiff's office and return to his unit, you cursed and threatened him in the presence of several staff and were overheard saying to Mr. Stephens "get the fuck out of here", "this shit has to stop", "what the fuck are you doing". You admitted to former Juvenile Facility Superintendent III Dwayne Mills that you "snapped and had one of your spells". As a result of this behavior, you were placed on a Performance Improvement Plan (PIP) by Superintendent Mills, effective from November 1, 2012 to May 31, 2013, to refrain from using profanity and act more professionally while addressing issues with staff. In your statement responsive to the request for major corrective action, you admitted that you said "what the fuck, Shawn, get out of here and do your job like you have been told" and when Mr. Stephens didn't leave, you took a step toward him and said "what the fuck".
- In September 2013, you used profane language in the presence of former Social Service Worker I Carolee Coffee-Lloyd, and in March 2014 you slammed a door in her face, knocked papers, pictures, stapler and other items off her desk and used profanity in ordering her to pick up the papers.
- In May 2016, you made a threatening statement heard by Youth Service Program Supervisor James Roberts, Juvenile Facility Superintendent II Tonya Burton, Youth Service Program Supervisor Christopher Rakes and Mr. Antle that you "would bring a gun in the building and start shooting".
- In May 2016, Social Service Clinician I Todd Davenport, Mr. Roberts and Social Service Specialist Samantha Trotter overheard you make the comment that you were "ready to set fire to all the exits and burn this place down".
- On June 27, 2016, you entered the office of Detention Alternatives Coordinator GaVon Antle, closed the door and used loud, threatening, and profane language. Mr. Antle filed a grievance on July 16, 2016 regarding your inappropriate behavior toward him. You also cursed Mr. Antle for

not providing the youth worker in the Control Room with a break, although this is not contained in Mr. Antle's job description. Several co-workers overheard your threatening, profane and intimidating comments toward Mr. Antle.

- As confirmed by several witnesses, on numerous occasions you used loud, threatening, intimidating and profane language directed toward subordinate employees. Nine (9) employees interviewed expressed fear of cooperating with the investigation due to your anger issues. Several employees stated that they failed to pursue any complaints against you because they felt threatened and feared retaliation by you.

Investigator James Gabbard substantiated the allegation of your performing restraint of a resident without being Aikido certified, as contained in investigative report IIB #2689-16. Investigator Gabbard conducted interviews with three staff witnesses and you, and reviewed still photographs from the facility surveillance videotape, the Isolation/Incident Report Form, Significant Incident Debriefing Addendum and Aikido training log. From witness interviews and documents reviewed, it was determined that on July 2, 2014, you initiated a restraint on Youth* by raising him from his seat and taking him to the floor using ACT 1 procedure. You admitted to Investigator Gabbard that you were not Aikido certified. Other staff present reported that the restraint of Youth* was not warranted, although you ordered staff present to assist with the restraint. In the Significant Incident Debriefing Addendum, Superintendent Burton noted that you were not Aikido certified and should not be involved in or initiating restraints of residents.

The allegation of your performing restraint of a youth without having Aikido certification was substantiated by Investigators Gabbard and Jewell, as contained in investigative report IIB #2691-16. For the investigation, interviews were conducted with two staff witnesses and you, and reviewed still photographs from the facility surveillance videotape, the Isolation/Incident Report Form, Significant Incident Debriefing Addendum and Aikido training log. It was determined that November 19, 2015, you initiated a restraint on Youth** with knowledge that you were not Aikido certified to perform restraints on residents. In the Significant Incident Debriefing Addendum, Superintendent Burton noted that protocol was not followed with the restraint because you lacked certification in Aikido techniques, and that you were prohibited from being involved in or initiating restraints of residents. Adair Youth Development Center training records confirmed that you last participated in Aikido Recertification Training on March 4, 2010. Department of Juvenile Justice Division Director of Professional Development Grace Smith advised that your Aikido certification expired two (2) years following the training, and you have not been certified to perform restraints of residents since March 4, 2012.

Investigators Gabbard and Jewell substantiated the allegation of your performing restraint of a resident without being Aikido certified, as contained in investigative report IIB #2692-16. Investigators conducted interviews with three staff witnesses and you, and reviewed still photographs from the facility surveillance videotape, the Isolation/Incident Report Form and Aikido training log. From witness interviews and documents reviewed, it was determined that on April 29, 2015, you responded to a call for assistance and initiated the restraint of a resident. You were assisted by two staff, and you placed your hands on Youth*** to perform an ACT 3 Basic Escort hold. The two staff placed Youth*** in a Double ACT 1 restraint, which is strictly prohibited by departmental policy. In the Isolation/Incident Report Form, you failed to document use of the prohibited hold used by the two staff during the restraint of Youth*** and failed to have the report reviewed by a higher-level supervisor for justification, appropriate level of force applied or proper use of Aikido techniques. You admitted to investigators that you were not Aikido certified to perform resident restraints. According to training records, your Aikido certification had been rescinded over three years prior.

Your poor work performance and misconduct, demonstrated by use of threatening and profane language directed at subordinate staff which created a hostile work environment and restraints of residents without being Aikido certified, constitute violation of 505 KAR 1:100; 505 KAR 1:110; Department of Juvenile Justice Policy #102, "Code of Ethics", I, IV.(C., J. and N.); Department of Juvenile Justice Policy #103.2, "Sexual Harassment and Anti-Harassment", I, IV.(E.)(6.); Department of Juvenile Justice Policy #104, "Code of Conduct", I, IV.(B., F., T., U., V. and X.); Department of Juvenile Justice Policy #208, "Youth Rights", IV.(H.); Department of Juvenile Justice Policy #318, "Behavior Management", I, IV.(A.)(2.), IV.(D.), IV.(F.)(1.); Department of Juvenile Justice Policy #324, "Restraints", I, IV.(C.)(1.)(a. and d.); Department of Juvenile Justice Policy #505, "Training Requirements, Special Staff Groups and Specialized Task Training", IV.(C.)(14.)(c.); Adair Youth Development Center Standard Operating Procedure #102, "Employee Code of Ethics", I, II.(C., J. and N.); Adair Youth Development Center Standard Operating Procedure #104, "Employee Code of Conduct", I, III.(B., F., U., V. and X.); Adair Youth Development Center Standard Operating Procedure #208, "Youth Rights", III.(H.); Adair Youth Development Center Standard Operating Procedure #318, "Behavior Management", I, II.(A.)(2.), II.(D.), II.(F.)(1.); Adair Youth Development Center Standard Operating Procedure #324, "Restraints", I, II.(C.)(1.)(a. and d.); and Adair Youth Development Center Standard Operating Procedure #505, "Training Requirements, Special Staff Groups and Specialized Task Training", I, III.(C.)(14.)(c.).

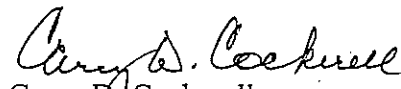
Ronald Long
Dismissal
January 3, 2017
Page 5

Furthermore, you received a one (1) day suspension by letter dated October 2, 2006 for misconduct (unwarranted restraint of a resident with inappropriate force used); and a written reprimand on June 11, 2002 for poor work performance (allowing both vehicle Sallyport gates to be open at the same time leaving the area unsecured).

*To keep confidential the identities of the youth as required by law, the names of the youth referred to are transmitted by the attached list marked "CONFIDENTIAL", which is not to be disclosed without proper authorization.

A copy of this notice is being furnished to the Personnel Cabinet in accordance with personnel rules. As an employee with status, you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the day of receipt. Appeals must be made by completing the attached form and directing it to the address indicated on the form. (See KRS 18A.095 and 101 KAR 1:265, Appeal and Hearing Procedures).

Sincerely,


Carey D. Cockerell
Commissioner

CDC/msc/sc

Attachments: Personnel Board Appeal Form
Acknowledgment Form

C: Mark Sipek, Personnel Board
Ed Jewell, Internal Investigations Branch
Hon. Matthew J. Baker
Ray DeBolt
Yvonne Board
Scott Whitaker
Tim Corder
Tim Conn
Eugene Wade
Tonya Burton
Cynthia Watson
DJJ Legal
DJJ Personnel

CONFIRMATION SHEET

This is to acknowledge receipt of a letter dated *January 3, 2017* and addressed to *Ronald Long*, from the Commissioner, Department of Juvenile Justice, regarding a dismissal letter.

Signed (Employee): *Ronald Long* *1-3-17*

Delivered by: *Tim Bunn FRA* on *1-3-17*
Date

(In the event employee refuses to sign)

Witnessed by: _____ on _____
Date