

**COMMONWEALTH OF VIRGINIA**  
Department of Human Resource Management  
Office of Employment Dispute Resolution

**DECISION OF HEARING OFFICER**

In re: Virginia State Police (VSP)

**Case Number: 11974**

Hearing Dates: July 21, 2023 & August 16,  
2023

Decision Issued: October 10, 2023

**PROCEDURAL HISTORY**

**VSP terminated Grievant's employment as a Law Enforcement Officer 111 (Special Agent) effective March 14, 2023, for introducing a firearm into a domestic dispute with his spouse. Specifically, the Group 111 Notice alleged that " [on] or about July 11, 2022, you handled a firearm with reckless disregard for human life by providing it to [your spouse] while believing she might use the firearm to harm herself". (Agency Ex. 1) The hearing was held virtually over two days on the Teams platform hosted by the agency's representative.**

**APPEARANCES**

Grievant

████████████████████ for Grievant

████████████████████ for the agency

Seven (7) witnesses testified for the Agency.

Four (4) witnesses testified for Grievant.

Grievant did not testify

## **ISSUES**

1. Whether Grievant engaged in the behavior described in the written notices?
2. Whether the behavior constituted misconduct?
3. Whether the Agency's discipline was consistent with law (e.g. free of unlawful discrimination) and policy?
4. Whether there were mitigating circumstances justifying a reduction or removal of the disciplinary action, and if so, aggravating circumstances existed that would overcome the mitigating circumstances?

## **EXHIBITS**

The Agency submitted a three-ring binder containing 27 exhibits numerically tabbed. Agency Exhibit 8.R. was submitted digitally. Grievant submitted a three-ring binder containing 35 exhibits numerically tabbed.

## **BURDEN OF PROOF**

The burden of proof is on the Agency to show by a preponderance of the evidence that its disciplinary action against the Grievant was warranted and appropriate under the circumstances. Grievance Procedure Manual ("GPM") § 5.8. A preponderance of the evidence is evidence which shows that what is sought to be proved is more probable than not. GPM § 9. Grievant has the burden of raising and establishing any affirmative defenses to the discipline and any evidence of mitigating circumstances related to the discipline. (GPM § 5.9)

## **FINDINGS OF FACT**

After carefully reviewing the evidence presented and observing the demeanor of each witness that testified, the Hearing Officer makes the following findings of fact.

Grievant was hired as an officer in the Virginia State Police on February 25, 2002. In 2006, after approximately 4.5 years, he was promoted to Special Agent, Law Enforcement Officer 111 in narcotics. He was fired on March 14, 2023, when he had approximately 21 years of service. Grievant had no active record of prior discipline. Grievant was performance rated in 2022 as a “contributor” and in 2021 as a “major contributor”. (Agency Ex. 3) (Grievant Ex. 3 & 21).

“The chief objective of the position is to reduce the crime problem (narcotics) throughout the Commonwealth through enforcement, education, and prevention. An employee in this position maintains liaison with supervisors and members of other law enforcement agencies,” (Grievant Ex, 3)

In his position Grievant signed a Code of Ethics that among other things required him to “Dedicate my efforts toward earning the respect, trust, and confidence of elected and appointed official with whom I work, and the public...and “Act with integrity in all aspects of my profession.” (Id)

As a sworn police officer, Grievant was required to strictly follow the Standards of Conduct (SOC) set forth in General Order ADM 11:00, the purpose of which is “[t]o establish standards of honesty, integrity, impartiality, and conduct by Department employees and to list the types of violations that may result in disciplinary actions” (Agency Ex. 13).

The SOC stressed that “The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by employees is essential to assure the proper performance of Department business and the maintenance of confidence by citizens of the Commonwealth” (Id)

Pursuant to the policy, “Employees must be able to perform the core responsibilities of their position. Conditions or circumstances, as they become known, which prevent employees from performing their assigned tasks, shall be reported to supervision.” (Id)

According to Grievant’s spouse, Grievant was self-medicating with alcohol and prescription sleeping pills since approximately 2014. Under the policy Grievant was required to inform his supervision of his sleep issues and self-

medication, and to identify any essential functions of his job that needed accommodation. Grievant did not do so.

On February 17, 2015, at 2:10 am, Grievant's spouse, who is employed as a VSP dispatcher, called 911 from their residence for a nonviolent domestic dispute between her and Grievant. The Sheriff's Office responded at approximately 2:32 am and found Grievant's spouse distraught and crying. No criminal charges were placed, however, in accordance with Va. Code § 16.1-253.4 an Emergency Protective Order was petitioned by Grievant's spouse and issued by a County magistrate prohibiting contact with her by Grievant. The Order expired on February 20, 2015, at 11:59 pm. (Agency Ex. 8 R)

Grievant's spouse stated that Grievant had consumed alcohol during the evening while taking medication that was prescribed for insomnia and was upset that he could not fall asleep.<sup>1</sup> Grievant's prescription bottle read that each dose is 10 mg and not to consume alcohol while taking the medication. His spouse stated that she had locked herself in a guest bedroom but Grievant gained access to the bedroom and wanted more of the prescribed sleep medication from her prescription.(Id)

Approximately eight (8) days thereafter, Grievant's spouse had a more upbeat assessment of her husband's disposition. She stated that Grievant's doctor had revoked his sleep prescription, and he was no longer in danger. (Id)

On February 21, 2015, the Grievant was placed on pre disciplinary leave and given specific instructions to not exercise his police powers, to surrender his vehicle, badges, and weapon and to not communicate with witnesses involved in the matter.

Grievant was referred for a Fitness for Duty evaluation on February 27, 2015. The Fitness for Duty Report was issued on March 3, 2015. (Grievant Ex. 22).

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<sup>1</sup> The medication is described by name in the exhibit. The name of the medication is not provided in this opinion as a courtesy to Grievant.

The psychiatrist evaluated Grievant for 2 hours, spoke with his spouse for approximately 40 minutes and spoke with Grievant's supervisor.

According to the report, Grievant denied any specific sleep disorder other than the sleep medication, denied any abuse of substances including alcohol, and denied that he misused the sleep medication. His spouse indicated that Grievant exhibits bizarre behavior under the influence of sleep medication and alcohol, and she described numerous other such occasions. Grievant's supervisor said there were no concerns regarding absenteeism, medication use at work, safety, or violence at the workplace. He described Grievant as one of the best agents and very dedicated to work.

The formal psychiatric diagnosis was Anxiety not otherwise specified, Rule out Insomnia Disorder, and rule out sleep medication Induced Dissociation.

Regarding work performance and fitness, the Report concluded that there does not appear to be any specific issues at work including safety for himself and others, nor any question of memory impairment, confusion, or dissociative behavior.

Grievant was deemed "fit to return to work with his usual responsibilities" The psychiatrist "strongly recommended that he receive substance abuse counseling and family counseling and that his use of any psychotropic medications be closely monitored by his physician.

On June 8, 2015, the administrative investigation was concluded as unfounded and Grievant was returned to full duty.

At no time during the investigation Grievant sought reasonable accommodation for an essential job function.

On or around November 14, 2016, Grievant received a Group 11 Written Notice for failure to report without proper notice to supervision pursuant to General Order ADB 12.02, Paragraph 13.b.(4), and faced the prospect of termination, transfer, demotion, salary reduction, or suspension. (Agency Ex. 8 R)

The Notice explained that the offense was because Grievant had “failed to report for duty on two of the three days of training (May 11 and May 12, 2016). The Undercover Officer Training was facilitated by the ██████████ County Police Department who paid all costs related to the Travel, Training, Lodging and Meals/per diem for you to attend the referenced training in Boston, Massachusetts.” (Id)

It is noteworthy that Grievant did not assert that alcohol or prescription medication caused him to miss two days at the conference. Instead, he admitted that “he has difficulty falling asleep, and to having a sleep disorder that is worsened in strange environments”. He did not assert that an inability to perform an essential job function caused him to not report. Instead, Grievant successfully argued for a lesser penalty because “While attending training the change in the schedule made it difficult for me to sleep as well as the change in the environment. As a result, I missed 2 days of training. In hindsight this could have been handled in a more appropriate manner and every effort will be taken in the future to avoid this situation. Also, I would ask that my work ethic and lack of disciplinary actions prior to this incident be taken into account.” (Agency Ex. 8 R)

The agency’s mitigation response clearly demonstrate that Grievant was regarded as a high performing police officer, and not as an alcoholic or insomniac. The response recognized that “Special Agent Grievant has a commendable work history with his most recent performance rating being that of a Major Contributor. Special Agent Grievant work ethic is above average, and he has continued to perform at acceptable levels during this investigative process...Special Agent Grievant has had one sustained citizen complaint for having an unauthorized passenger in his issued vehicle in 2007 and has no further founded formal disciplinary action during his fourteen years of service with the Department. His work record and the fact that no reimbursement is being sought by the ██████████ County Police Department, nor did they request an official investigation into this matter, help to support the determination not to suspend Special Agent Grievant. Lastly, he has accepted full responsibility for his actions. (Id)

Grievant was removed from the ██████ County Violent Crimes task force. Grievant was reminded of the need to follow Department policy and “as an experienced member in DES, he was expected to set the example for the new agents by and knowing policy and applying that policy properly, and by providing good advice to other agents, especially new agents.” (Ex. 8 R)

Despite all the warnings he received and promises to follow the procedures, Grievant was again involved in a domestic dispute with his spouse that ultimately led to the issuance of the current Group Notice and his termination.

In the evening of July 11, 2022, and continuing into July 12, 2022, Grievant had an argument with his spouse at their home while he was intoxicated due to a combination of alcohol and prescription sleep medication<sup>2</sup>. The medication was in the same class of medications that he previously used. Grievant introduced into the argument a loaded firearm that he placed on a bathroom counter close to his spouse.<sup>3</sup> His spouse was understandably terrified and called the agency for assistance.

Grievant’s spouse vividly described the chaotic events of July 11 and 12 to the agency investigator. She got home at 1:00 am. Grievant was angry and intoxicated. They argued over a financial matter that Grievant believed would doom his chances for a top security clearance and placement on a Federal task force. (Agency Exhibit 4)

According to the report, [She] goes upstairs to a bathroom at the top of the stairs to prepare for bed. [She] sees [Grievant] coming up the stairs holding a gun in his hand. [She] described the gun as a Glock...[Grievant] brings the handgun

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<sup>2</sup> As before, the medication is identified by name in the exhibit. However, the Hearing Officer, as a courtesy to Grievant is not disclosing the name of the medication in this decision. Suffice it to say that this medication is in the same class of drugs as the previous medication and contains the same warnings to not consume alcohol while taking the medication.

<sup>3</sup> The location of the gun is hotly debated. Grievant argues the gun was not close to his spouse. His spouse, in an effort to protect her husband testified that she was not in the bathroom where the gun was placed. Her testimony is clearly at odds with the version of events she gave the investigating officer on July 12, 2022. Another agency official wrote that “[Grievant] placed the pistol on the counter of a nearby bathroom, approximately 20 feet from her. The Hearing Officer credits the version Grievant’s spouse gave on July 12. It was closer to the actual event.

into the bathroom, never threatens her with the handgun but lays it on the sink. [She] asked [Grievant] who the gun is for; [Grievant's] drunk reply was slurred and heavy-tongued, saying it wasn't for him. [She] then said, if you think I am going to shoot you or myself, that's not going to happen. At some point [he] leaves the bathroom and goes to bed, leaving the gun in the bathroom with [his spouse]. She then takes the gun and put it in a filing cabinet. (Id)

She said Grievant's conduct caused her to take her blanket and pillow and sleep on the bathroom floor, however Grievant kept coming to the bathroom door, yelling and trying to push the door in. She ultimately gave in and returned to the bedroom with him.

She said that Grievant went to sleep or passed out, and around 2:45 am she grabbed some clothes and went to her vehicle to get away from Grievant and called the Department for help. At the hearing, she testified that she left her house at approximately 3 am to sleep in her car in the parking lot of a dentist for a 9:00 am appointment.

On July 12, 2022, Grievant was interviewed at Division Headquarters. He informed the interviewer that he never intended to harm his spouse. He admitted to taking a loaded gun with a bullet in the chamber to the bathroom during the argument. When asked why he introduced a gun into the argument, he said "that [his spouse] had threatened suicide in the past". Grievant claimed that he "forced his way into the bathroom because he was concerned about [her] safety.

VSP sought to address the matter as a criminal case and administratively. The criminal case never developed because a County magistrate ruled that the allegations lacked probable cause. The administrative investigation continued and ultimately led to the issuance of the Group III Notice and termination.

Grievant was scheduled for a Fitness for Duty evaluation on August 16, 2022. In a report received by the Department on August 29, 2022, the psychologist declared Grievant fit for full duty with recommendations. (Agency Ex. 6 K) (Agency Ex. P)

In the report, the psychologist made 5 recommendations:



1. Grievant “meets criteria for an Alcohol Use Disorder – mild to moderate. [He] echoed the opinion of [Grievant’s 2015 evaluation by again offering a strong recommendation that he receive and engage with substance abuse counseling and family counseling to significantly reduce alcohol and never again combine alcohol intake with any sleep medications.”
2. Grievant meets criteria for Anxiety Disorder, Not otherwise specified. However, his anxiety symptoms are mild, appear to be situationally determined , and may be connected to his use of alcohol and prescription sleep medication. For this reason, Anxiety is not believed to rise to the level of being an interfering condition.
3. It is recommended that Special Agent [Grievant] continue with his current VSP roles and pursue Substance Use and Anxiety symptom treatment in therapy. While therapy with psychotropic medications may be indicated, it should only be prescribed and closely followed by a psychiatrist.
4. From a psychological standpoint, by virtue of the absence of any signs or symptoms of an interfering psychological condition that meets criteria for diagnosis, Special Agent [Grievant] is fit for duty and able to perform the essential duties of his job as a Special Agent in the Virginia State Police.
5. In the event that Special Agent [REDACTED] develops any signs or symptoms of a psychological condition in the future, he should seek mental health treatment. As always, if he should ever feel he is a danger to himself or others, he should go to the nearest emergency room. (Grievant Ex. 21)

In accordance with the Fitness for Duty report, Grievant was returned to duty on September 12, 2022, and permitted to work on his pending cases. Grievant was not required to testify in court on those cases.

The administrative investigation continued and Effective March 3, 2023, Grievant was suspended and placed on Pre-Disciplinary leave with Pay. (Agency Ex. 6 ) The notice stated, “your continued performance of the duties as a Virginia

State Police Special Agent could constitute negligence in regard to the Department's duties to the public or other employees."

Grievant was prohibited from representing himself "as a sworn employee of the department , except when appearing in court concerning cases which occurred while [he] was in good standing".<sup>4</sup>

Effective March 14, 2023, Grievant's employment with the VSP was terminated. (Agency Ex. 6 A) and he filed a timely grievance.

### **APPLICABLE POLICIES**

VSP took disciplinary action in this case pursuant to the Standards of Conduct set forth in General Order ADM 11:00. Para. 6 b 3 ( Threatening or coercing employees, supervision, or the public) and Para. 13 u l (Engaging in conduct, whether on or off the job, that undermines the effectiveness or efficiency of the Department's activities. This includes actions which might impair the Department's reputation or performance of its employees.) (Agency Ex. 13)

#### **Grievant Engaged in the conduct described in the Written Notice**

The Findings of Fact that are carefully articulated above demonstrate that Grievant acted with reckless disregard for human life when he introduced a loaded firearm into an argument with his spouse when he was intoxicated and disoriented from consuming alcohol with prescription sleep medication. Grievant, by counsel argues that the agency did not prove that he intended to harm his spouse because he had no recollection of the event. (Agency Ex. 2).

The argument ignores the fact that Grievant knew from the 2015 incident that his behavior became erratic and unpredictable when he mixed his prescription sleep medication with alcohol. Yet he did it anyhow. Similarly, he claimed that he unwittingly took the medication because the prescribing doctor assured him that the new medication would not have the same negative side effect as the medication, he was on in 2015. (Agency Ex, 6 I Attachment 7). That excuse doesn't hold water because the doctor did not tell him he would not have the same bad side effects when he mixed alcohol with the medication. He did so

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<sup>4</sup> The Hearing Officer resolves the dispute in favor of Grievant that he was permitted to fully work his cases when he returned to work on September 12, 2022.

anyhow and cannot now blame his doctor for his voluntary decision to drink alcohol while taking the medication. Moreover, he admitted that the prescription bottle clearly stated that alcohol should not be consumed while taking the medication.

Grievant's, counsel argues that the evidence must show more than a possibility of harm, it must show substantial risk of harm. Counsel cites a criminal case for this proposition. Counsel ignores the fact that Jones v. Commonwealth, the case he cites is a criminal case that requires proof beyond a reasonable doubt. The instant case is a civil administrative matter and requires proof by a preponderance of the evidence. The Hearing Officer is of the strong belief that the applicable standard has been met by the evidence in this case.

During the investigation, Grievant's spouse informed an agency investigator that Grievant was intoxicated and she was in fear when he laid the gun on the bathroom counter:

"Does [Grievant] have a drinking problem?

Probably

Would you say that he is an alcoholic?

Probably.

Was he intoxicated when he placed the gun on the counter?

Well, um, yes. I would say yes.

Does he routinely handle firearms when he's intoxicated?

No.

Were you in fear?

Wouldn't you be? Yes. Yes.

What about that made you fearful?

It was a gun.

Was it the fact that he laid the gun on the counter, that he had a gun, that he was drinking, or a combination of all?

All of it.

Is there any reason to believe that he placed the weapon there for a reason other than for you to kill yourself?

No. I think that was the message. I think that was the intended message.  
(Agency Ex. 6 H)

Threatening or coercing employees is a violation of General Order ADM 11:00, para. 6 b 3 and is a Group iii violation.

**The Agency's discipline was consistent with law and policy.**

Grievant argues that the agency unreasonably imposed discipline based on a covered ADA disability, alcoholism. (Grievant Ex. 2) (Agency Ex. 2) This argument is wrong.

Title 1 of the Americans with Disabilities Act provides that "No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual." (42 U.S.C. § 12112 (a)). The ADA only protects "qualified individuals with a disability. (Id) A disability is a physical or mental impairment that substantially limits one or more of the major life activities of such individual. Id §12102(2)(A). A qualified individual with a disability is an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. Id. §12111(8). Alcoholism is a disability, and an alcoholic may be a qualified individual with a disability as long as alcoholism substantially limits a major life activity. See, e.g., Burch v. Coca-Cola Co., 119 F.3d 305 (5<sup>th</sup> Cir. 1997)

To have an ADA claim, the employee must also prove that in addition to having a qualifying disability, that an adverse employment action was taken "because of the employee's disability." 42 U.S.C. §12112(a).

Grievant's ADA argument fails on at least two bases. First Grievant was fired not because of a disability, but because of his callous disregard for his spouse's life when he was intoxicated and introduced a loaded firearm into their domestic dispute. A dispute in which he was clearly the aggressor.

As the Lieutenant Colonel who recommended Grievant's dismissal to the Superintendent wrote "when you presented the firearm into an already heated exchange, it served only to exacerbate the situation. Again, you stated that you had read the warning labels on the medication and understood that alcohol should not be consumed while taking it, With that understanding, you chose to ignore the warning. Furthermore, you were also aware from past experience of

how the consumption of alcohol in conjunction with the sleep medication affected you. The preceding coupled with your behavior in this matter is an indication of you having a callous attitude for the wellbeing of [your spouse] and yourself. Fortunately for you and [your spouse] , the situation ended without you, or [your spouse] being seriously injured or killed.” (Agency Ex. No 6 C) The Lieutenant Colonel did not waiver or back tract on his reasoning when he was cross examined extensively on these points.

Second, Grievant never put the agency on notice that he was an alcoholic and needed a change at work to accommodate his alcoholism. See, e.g., Bell v. Natsios, Administrator, Agency for International Development, EEOC-OFO Appeal No. 01A40930, 106 FEOR 22, 105 LRP41347 (**Program Analyst EEOC appeal dismissed because he “did not let the agency know that [he needed] an adjustment or change at work for a reason related to [his] medical condition, alcoholism”**; John Sabados v Glen McCullough, Chairman Tennessee Valley Authority, EEOC-OFO Appeal No. 01A23952, May 25, 2004, 104 FEOR 441, 104 LRP26263 (**Chemistry Superintendent at a nuclear plant EEO appeal dismissed “because [he] did not notify the agency of his alcoholism [therefore] the agency did not have to provide reasonable accommodation”**)). The notice requirement recognized by the EEOC is also required by the Standards of Conduct. (Agency Ex 13)

Likewise in this case, Grievant did not come clean with the agency regarding his alcoholism until the agency investigated his wife’s complaint of domestic abuse. As far as the agency was concerned, he was performing his job duties at a high level.

Grievant also argues that similarly situated officers were not fired when they misused their weapon in the same or similar circumstances as Grievant. There are two exhibits in the record that contain summaries of weapons use infractions and the resulting discipline, if any. (Grievant Ex. 10 & 24). An important observation is that these charges and outcomes were considered by the agency investigators who did not find them to be of similar circumstance as Grievant’s charges.

Exhibit 10 describes ten instances from March 2017 to February 22, 2023, of troopers accidentally discharging their service weapon in nonviolent circumstances. Each was charged with Negligent Handling of a Firearm accidentally injuring themselves in two cases and without bodily harm in eight cases. In two cases the troopers resigned. None were fired. These cases on their face are distinguishable from the current case where Grievant created a volatile and dangerous situation that could have resulted in death or serious injury to his spouse.

Exhibit 24 is a spreadsheet that lists 13 administrative investigations that involve conduct somewhat similar to the instant case and the recommended dispositions. All were charged with impairing the efficiency and reputation of the department with their off-duty conduct. Four cases involved intoxication. Three cases involved Special Agents and one of those cases involved a domestic dispute between the Special Agent and his spouse while they were both intoxicated. One case involved a trooper, not a Special Agent, who “brandished a firearm after he brought a third party to complainant’s residence to retrieve her personal items. The employee received a Group 111 Notice but was not fired. This case, however, based on the summary provided cannot provide a genuine comparison to Grievant’s conduct in instant case. For example, the employee is a trooper, he/she is not a Special Agent in Narcotics as Grievant, therefore their job duties may not be the same. There is no evidence of mitigation, as for example length of service, awards, performance evaluations, prior discipline, was the gun loaded with a bullet in the chamber as in this case, did anyone in the room express fear etc. See, for e.g., Reid v. Dalco Nonwovens, LLC, 154 F.Supp. 3d 273 (USDC North Carolina 2016)(In a disparate punishment case, comparator employee must be similarly situated in all relevant respects and must have been disciplined by the same supervisor.)

**There were no mitigating circumstances justifying a reduction or removal of the disciplinary action.**

In hearings contesting formal discipline, if the hearing officer finds that (1) the employee engaged in the behavior described in the Written Notice, (11) the

behavior constituted misconduct, and (11) the agency's discipline was consistent with law and policy, the agency's discipline must be upheld and may not be mitigated unless under the record evidence, the agency's discipline exceeds the limits of reasonableness."(GPM at § 5.9).

The Standards of Conduct Policy provides for the reduction of discipline if there are mitigating circumstances such as (1) conditions that compel a reduction to promote the interests of fairness and objectivity or based on an employee's otherwise satisfactory work performance; or (2) an employee's long service or otherwise satisfactory work performance.

Grievant had 21 years of service to VSP when he was fired. This is a significant length of employment and should not be dismissed lightly. At the time of termination, Grievant was performing his duties well. Nevertheless, the agency had a valid concern that Grievant's conduct was so beyond the pale that management lost trust in Grievant's ability to serve the public and the agency with outmost respect. As one management official observed "Law enforcement has a duty to preserve lives and Grievant's conduct demonstrates a failure to take any action in furtherance of this responsibility". That same agency official noted that Grievant's "inability or unwillingness to acknowledge his personal issues related to his alcohol consumption, despite overwhelming evidence, makes it extremely likely that his dangerous conduct will reoccur or escalate. His lack of acceptance of personal responsibility, combined with his alleged conduct in his 2015 domestic situation, makes it extremely probable that his dangerous behavior will continue and possibly worsen. (Agency Ex. No. 6 E) The management official making those comments has held top level management jobs in the agency for many years and his opinion carries significant weight.

A Hearing Officer is not a super personnel officer and lacks the power to second guess the agency. Rather the Hearing Officer's proper role is to determine that the penalty imposed by the agency is within the bounds of reasonableness. I find that termination in this case is within the bounds of reasonableness.

## DECISION

For the reasons stated, the agency's issuance to the Grievant of a Group 111 Written Notice of disciplinary action with removal is upheld and Grievant's claim for relief is denied.

## APPEAL RIGHTS

You may request an administrative review by EDR within **15 calendar** days from the date the decision was issued. Your request must be in writing and must be **received** by EDR within 15 calendar days of the date the decision was issued.

Please address your request to:

Office of Employment Dispute Resolution (EDR)  
Department of Human Resource Management  
101 North 14<sup>th</sup> St., 12<sup>th</sup> Floor  
Richmond, VA 23219

or, send by e-mail to [EDR@dhrm.virginia.gov](mailto:EDR@dhrm.virginia.gov), or by fax to (804) 786-1606.

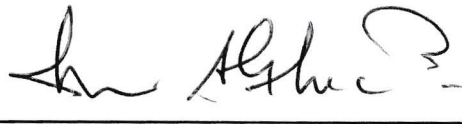
You must also provide a copy of your appeal to the other party and the hearing officer. The hearing officer's **decision becomes final** when the 15-calendar day period has expired, or when requests for administrative review have been decided.

A challenge that the hearing decision is inconsistent with state or agency policy must refer to a particular mandate in state or agency policy with which the hearing decision is not in compliance. A challenge that the hearing decision is not in compliance with the grievance procedure, or a request to present newly discovered evidence, must refer to a specific requirement of the grievance procedure with which the hearing decision is not in compliance.

You may request a judicial review if you believe the decision is contradictory to law. You must file a notice of appeal with the clerk of the circuit court in the



jurisdiction in which the grievance arose within **30 days** of the date when the decision becomes final.<sup>5</sup>



10/10/2023

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Neil A.G. McPhie  
Hearing Officer

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<sup>5</sup> [See Sections 7.1 through 7.3 of the Grievance Procedure Manual for a more detailed explanation or call EDR's toll-free Advice Line at 888-232-3842 to learn more about appeal rights from an EDR Consultant.