

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2008 CA 1275

ANTHONY DANNA JR

VERSUS

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

**Judgment Rendered: February 13, 2009**

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Appealed from the  
State Civil Service Commission  
State of Louisiana  
Docket Number S-16059

Honorable James A. Smith, Chairman; Burl Cain, Vice Chairman;  
Rosa B. Jackson and Chatham H. Reed, Members

\* \* \* \* \*

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Plaintiff/Appellant  
Anthony Danna Jr.

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Counsel for  
Anne S. Soileau, Secretary  
Louisiana Department of Civil  
Service

\* \* \* \* \*

BEFORE: KUHN, GUIDRY, AND GAIDRY, JJ.

*AMY*  
*[Signature]*  
EJG  
04 *[Signature]*

## **GUIDRY, J.**

A state employee with the Louisiana Department of Transportation and Development (DOTD) appeals a decision of the State Civil Service Commission (Commission) upholding the termination of his employment. For the reasons discussed herein and in the Commission's decision, we affirm.

### **FACTS AND PROCEDURAL HISTORY**

In 2006, the appellant, Anthony Danna, Jr., was employed as a Real Estate Specialist 3 working in the District 61 Real Estate Office on Old Hammond Highway, a satellite office of the DOTD. This appeal stems from events that took place on June 27, 2006, prompting an internal investigation by the DOTD. As a result of those events and dissatisfaction with the level of Danna's cooperation with the subsequent internal investigation, Danna was given notice of a recommendation to terminate his employment with the DOTD for insubordination by the Appointing Authority.<sup>1</sup> A pre-deprivation hearing was held on August 23, 2006, and Danna's employment with the DOTD was terminated effective September 15, 2006.

Danna appealed his dismissal to the Commission, which affirmed the decision of the Appointing Authority to terminate his employment based on insubordination. This appeal followed.

### **ASSIGNMENTS OF ERROR**

On appeal, Danna disputes the decision of the Commission in the following respects:

1. The Civil Service Commission committed reversible error in upholding Appellant's termination on grounds of insubordination when there was not a sufficient factual basis to find that Appellant engaged in insubordinate conduct that impaired the efficiency of the Department of Transportation and Development and bore a real and substantial relation to the efficient operation of DOTD.

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<sup>1</sup> Civil Service Rule 1.4 defines "appointing authority" as "the agency, department, board, or commission, and the officers and employees thereof authorized by statute or by lawfully delegated authority to make appointments to positions in the State Service."

2. The Civil Service Commission committed reversible error in upholding Appellant's termination on grounds of insubordination in finding as a fact that Appellant was insubordinate.
3. The Civil Service Commission committed reversible error in upholding Appellant's termination on grounds of insubordination by penalizing him for the exercise of protected fundamental rights.
4. The Civil Service Commission committed reversible error in upholding Appellant's termination on grounds of insubordination since the "Loudermill" process was invalid.
5. The Civil Service Commission committed reversible error in upholding Appellant's termination on grounds of insubordination since the orders of the appointing authority were unreasonable under the circumstances[ ] and since Appellant had legitimate and valid reasons for refusing to comply with the orders of the appointing authority.
6. The Civil Service Commission committed reversible error in upholding Appellant's termination on grounds of insubordination by finding that James M. Dousay possessed authority to issue the letter of termination to Appellant.
7. The Civil Service Commission committed reversible error in upholding Appellant's termination on grounds of insubordination since the disciplinary action taken was excessive and too severe, and not commensurate with any alleged offense.
8. The Civil Service Commission erred in failing to make an award of attorney fees.

### **LAW AND DISCUSSION**

The final decision of the Commission is subject to review by the court of appeal on any question of law or fact. La. Const. art. 10, § 12(A). A reviewing court should not disturb the factual findings made by the Commission in the absence of manifest error. Williams v. Orleans Levee District, Board of Commissioners, 00-0297, p. 4 (La. App. 1st Cir. 3/28/01), 784 So. 2d 657, 659, writ denied, 01-1730 (La. 9/14/01), 796 So. 2d 686. In evaluating the Commission's determination as to whether the disciplinary action is both based on legal cause and commensurate with the infraction, the court should not modify the Commission's order unless it is arbitrary, capricious, or characterized by abuse of discretion. McGee v. Department of Transportation and Development, 99-2628, p.

3 (La. App. 1st Cir. 12/22/00), 774 So. 2d 1280, 1282, writ denied, 01-0232 (La. 3/23/01), 788 So. 2d 432.

Generally, an abuse of discretion results from a conclusion reached capriciously or in an arbitrary manner. The word "arbitrary" implies a disregard of evidence or of the proper weight thereof. A conclusion is "capricious" when there is no substantial evidence to support it or the conclusion is contrary to substantiated competent evidence. Burst v. Board of Commissioners, Port of New Orleans, 93-2069, p. 5 (La. App. 1st Cir. 10/7/94), 646 So. 2d 955, 958, writ not considered, 95-0265 (La. 3/24/95), 651 So. 2d 284.

When there is a conflict in testimony, reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed on review. When there are two permissible views of evidence, the fact finder's choice cannot be manifestly erroneous. Saacks v. City of New Orleans, 95-2074, p. 13 (La. App. 4th Cir. 11/27/96), 687 So. 2d 432, 440, writ denied, 97-0794 (La. 5/9/97), 693 So. 2d 769, cert. denied, 522 U.S. 914, 118 S.Ct. 298, 139 L.Ed.2d 230 (1997).

Having reviewed the entire record in this matter and the thorough and well-reasoned decision of the Commission, we find no manifest error in the factual findings of the Commission. Further, having reviewed the applicable law and the evidence presented, we do not find merit in any of the assignments of error presented, which alleged errors were duly addressed by the Commission in its decision.<sup>2</sup> Thus, we do not find that the Commission abused its discretion in

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<sup>2</sup> The only assignments of error not addressed in the Commission's decision are Danna's assertion that he was not provided due process in accordance with Cleveland Board of Education v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985) (error number four) and that the Commission erred in failing to make an award of attorney fees (error number eight).

The due process rule pronounced in Loudermill, 470 U.S. at 546, 105 S.Ct. at 1495, is that a tenured public employee is entitled to oral or written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story. Such action was taken herein, which principle is embodied in Civil Service Rules 12.7 and 12.8(a). Danna was provided an original pre-deprivation notice on August 15, 2006, wherein it was stated that based on his actions, it was *recommended* that his employment with the DOTD be terminated. Danna was given an opportunity to respond to the notice at a hearing held on August

upholding the disciplinary action of the Appointing Authority, and, for the reasons expressed in the attached decision of the Commission, we affirm the decision. All costs of this appeal are cast to the appellant, Anthony Danna, Jr.

**AFFIRMED.**

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23, 2006. Thereafter, on August 29, 2006, Danna was provided an amended pre-deprivation notice "because of [his] renewed failure to cooperate in the investigative process on August 18, 2006." In the amended notice, Danna was advised that he was being given an opportunity to further respond, in writing, to the original and amended pre-deprivation notices by September 6, 2006. The amended notice further advised Danna to "[b]e assured that your response will be thoughtfully considered before a final decision is made on the recommendation of removal." Danna received notice on September 7, 2006, of his termination effective 15, 2006. Danna's reliance on Sommer v. State, Department of Transportation and Development, 97-1929, pp. 10-12 (La. App. 4th Cir. 3/29/00), 758 So. 2d 923, 931-932, writ denied, 00-1759 (La. 10/27/00), 772 So. 2d 122, is misplaced. In Sommer, the pre-deprivation letter gave the employee notice of her *termination* effective February 16, in a letter dated February 9, without any opportunity to be heard. As recited above, such deficient proceedings did not occur in this case. Thus, based on the record in this matter, we find no merit in Danna's fourth assignment of error. See Bailey v. LSU Health Care Services Division, 99-1981, p. 5 (La. App. 1st Cir. 9/22/00), 767 So. 2d 946, 949.

Moreover, since we have found that the Commission did not err in upholding Danna's termination for insubordination, we reject Danna's final assignment of error praying for an award of attorney fees.

## Decision

State of Louisiana  
Civil Service Commission

Filed: November 29, 2007

Docket No. S-16059

Anthony Danna, Jr.  
v.  
Department of Transportation and Development

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Rules: 12.2

Topics: Dismissal for failing to follow directives of superiors and failing to appear for and cooperate in an investigation; Fifth Amendment rights; delegation of appointing authority does not relinquish authority

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### Appearances:

Mark E. Falcon, representing the Department of Transportation and Development  
Robert T. Talley, representing Anthony Danna, Jr.

### Statement of the Appeal

Anthony Danna, Jr. worked for the Department of Transportation and Development (DOTD). By letter dated September 7, 2006, DOTD dismissed Mr. Danna effective September 15, 2006. DOTD charges Mr. Danna with allowing attorney Robert T. Talley in the office contrary to directives and telling the police officer who had been summoned that it was okay for Mr. Talley to be there. DOTD also charges Mr. Danna with failing to comply with directives to appear for an administrative investigation on July 21, 2006 and on July 24, 2006, and with refusing to answer questions during the investigation on August 18, 2006.

On October 9, 2006, Mr. Danna appealed his dismissal. He denies the charges and asserts that he had done nothing to warrant dismissal. Alternatively, he asserts that the penalty is excessive. He asks for reinstatement and back pay.

We held public hearings on November 14, 2006, December 12, 2006, and July 17, 2007. DOTD filed a brief at the conclusion of the hearing; Mr. Danna's post hearing brief was filed on July 30, 2007. Based on the evidence presented and pursuant to Article X, Section 12(A) of the state constitution, we make the following findings and reach the following conclusions.

## Findings of Fact

1. Anthony Danna, Jr. worked for DOTD as a Real Estate Specialist 3 in the Real Estate Division. He had fifteen years of state service, permanent status, and no prior disciplinary record. Until January 2006, Mr. Danna's ascending chain of command was: Joseph S. Recile (District 61 Manager); Lloyd P. Scallan (Assistant Real Estate Administrator); James M. Dousay (Real Estate Division Administrator).
2. Mr. Danna worked in DOTD's office located at 10495 Old Hammond Highway in Baton Rouge, along with Mr. Recile, James Gist, Vicki Poirrier, and Joseph Delpit. The Old Hammond Highway office is sometimes referred to as the District 61 office. (At one time, it was also called the right-of-way office.)
3. By memo dated October 8, 2002, Lawrence A. Durant, DOTD's General Counsel, advised Mr. Dousay that he had learned that Robert T. Talley, a private attorney who represented several property owners as well as several DOTD employees, had been making frequent visits to the Old Hammond Highway office.<sup>1</sup> Mr. Durant stated that it was improper for DOTD personnel to conduct private business on state property and time and that it was improper for DOTD personnel to divulge information regarding state right-of-way projects to non-DOTD attorneys. Mr. Durant asked Mr. Dousay to advise Mr. Recile and his subordinates not to discuss right-of-way or construction matters with Mr. Talley or any other private attorney and to refer such inquiries to the Legal Section. Mr. Dousay talked to Mr. Recile. However, it is unclear which, if any, of Mr. Durant's concerns were relayed to Mr. Danna and his coworkers.
4. In January 2006, Mr. Recile retired. Charles Hudson (Real Estate Specialist 7) became Mr. Danna's immediate supervisor. Mr. Hudson did not move to the Old Hammond Highway office, but remained at DOTD's real estate office located at 8545 United Plaza Parkway in Baton Rouge.
5. On June 5, 2006, Special Agents Terry Apple and Donald Tusa from the Attorney General's office arrested Mr. Recile for malfeasance in connection with activities that took place at the Old Hammond Highway office. Mr. Recile hired Mr. Talley to represent him. Mr. Danna learned about Mr. Recile's arrest and Mr. Talley's representation of Mr. Recile.
6. The Old Hammond Highway office opens into a lobby. The door from the lobby to the interior offices is locked. A visitor cannot gain access to the interior offices unless an employee lets the visitor in.
7. During the afternoon of June 27, 2006, Mr. Talley arrived at the Old Hammond Highway office. Ms. Poirrier let him in. Mr. Talley asked to see some maps. Ms. Poirrier located the maps, which were in an unoccupied office. She left Mr. Talley in the office, closed the door, and returned to her office.

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<sup>1</sup> Mr. Talley had previously worked for DOTD.

8. At about 3:30 p.m., on June 27, 2006, Hubert E. Graves (Real Estate Specialist 6/ Administrative Manager for the Real Estate Division) and Denise Elder (Real Estate Specialist 3) went to the Old Hammond Highway office to return files. Ms. Poirrier let them in.
9. Ms. Poirrier, whose work day ends at 3:30 p.m., went to the office in which Mr. Talley was sitting and told him she was leaving and if he needed anything, Mr. Danna was in his office. Ms. Poirrier then left the office.
10. Meanwhile, Mr. Graves and Ms. Elder delivered the files to Mr. Danna, who was sitting at his desk in his office. Mr. Graves had seen a white Suburban in the parking lot and was surprised there was a visitor at the office so late. He asked Mr. Danna who the car belonged to. Mr. Danna said it belonged to Mr. Talley. Mr. Graves asked Mr. Danna what Mr. Talley was doing there. Mr. Danna mentioned Mr. Recile, although the context is in dispute.<sup>2</sup> From their conversations with Mr. Danna, Mr. Graves and Ms. Elder understood that Mr. Talley was there, working on Mr. Recile's case. Mr. Graves left Mr. Danna's office to look for Mr. Talley. He located him alone, in an office, behind a closed door, looking at maps. The office contained computers, filing cabinets, and a telephone. Mr. Talley had a large expandable file.
11. Mr. Graves, who is superior to Mr. Danna, but is not in Mr. Danna's direct chain of command, went outside and called his supervisor, Pam Leon (Real Estate Specialist 7). Ms. Leon located Mr. Scallan and put him on speaker phone. Mr. Scallan directed Mr. Graves to find out what Mr. Talley was doing at the Old Hammond Highway office and to direct him to leave and not return.
12. Mr. Graves went back to the office where Mr. Talley was sitting. He asked Mr. Talley what he was doing. Mr. Talley explained that he was reviewing the plans for the Old Hammond Highway project because he represented a property owner who had not been contacted or compensated when land was expropriated to widen the road. Mr. Graves instructed Mr. Talley to direct his inquiries to the Legal Section. Mr. Graves walked with Mr. Talley to the door and locked it behind him. Mr. Graves did not specifically tell Mr. Talley not to return: Mr. Graves believed that Mr. Talley should have inferred this from his (Mr. Graves') demeanor.
13. Mr. Graves returned to Mr. Danna's office, obviously upset, and shouted at him for letting Mr. Talley into the office. Mr. Graves asked Mr. Danna: "Are you crazy? Don't you know there's a criminal investigation going on and that the evidence is housed in the files here?" Mr. Graves testified that he told Mr. Danna, twice, "Do not allow that man in this office." Mr. Danna denied that Mr. Graves told him this, but admitted that Mr.

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<sup>2</sup> Mr. Graves testified that when he asked Mr. Danna what Mr. Talley was doing there, Mr. Danna told him "working on Joey's case." Ms. Elder testified that when she asked Mr. Danna what Mr. Talley was doing there, Mr. Danna told her not to worry because Mr. Talley was Mr. Recile's friend and attorney and Mr. Talley said he was 99% sure that Mr. Recile would be exonerated of all charges. Mr. Danna denied making either of these statements and testified that at some point he told Mr. Graves that he had known Mr. Talley for many years and that Mr. Talley had represented Mr. Recile in a divorce case.



Graves told him: "There's no way Rob Talley should be in this office" and "we can't have him coming here any more." At some point, Mr. Danna told Mr. Graves and Ms. Elder that Mr. Talley had been at the office many times and had received telephone calls and faxes there.

14. Mr. Graves and Ms. Elder returned to the real estate office and related the incident to their supervisors. Either Mr. Dousay or Mr. Scallan told them to call the police to file an incident report. Ms. Elder called city police and was told that an officer would meet her at the scene.

15. Meanwhile, Mr. Talley returned to the Old Hammond Highway office. Mr. Danna let him in. Mr. Talley asked if Mr. Danna was all right.

16. A police officer arrived at 5:29 p.m. Mr. Danna and Mr. Talley met him at the door and let him in. Mr. Danna and Mr. Talley told the officer that they did not know why the police had been called. At about 5:35 p.m., Mr. Graves arrived. Mr. Danna and Mr. Talley were in the office. Mr. Graves called Ms. Leon. She contacted Mr. Dousay, who was en route. Mr. Dousay arrived. Mr. Dousay asked Mr. Talley what he was doing there and said: "You know you don't belong here." A heated argument ensued. The police officer asked Mr. Dousay if he wanted Mr. Talley arrested for trespass. Mr. Dousay said he did. However, Mr. Dousay had nothing in writing to the effect that Mr. Talley could not be at the office and Mr. Graves admitted that he did not tell Mr. Talley, in so many words, not to return. The police officer directed Mr. Talley not to return to the office.

17. On June 28, 2006, Mr. Hudson directed the four employees in the Old Hammond Highway office (Ms. Poirrier, Mr. Gist, Mr. Delpit, and Mr. Danna) to gather their belongings and relocate to DOTD's real estate office.

18. Mr. Scallan called Special Agent Apple and told him that Mr. Talley had been in the office without authority and that they wanted to know what he was doing, who allowed him in, and what security measures were in place. Mr. Scallan was concerned that Mr. Talley was interviewing witnesses in connection with Mr. Recile's case. Mr. Scallan gave Special Agent Apple the names of the four employees to be interviewed. At some point, Mr. Scallan told the four employees that they would be questioned by representatives from the Attorney General's office.

19. Special Agents Apple and Tusa arrived at the DOTD real estate office on July 5, 2006. Mr. Scallan went to get Mr. Danna and told him some men from the Attorney General's office were there to ask him some questions and were waiting for him in Mr. Dousay's office. Mr. Danna went to Mr. Dousay's office; Mr. Scallan did not remain.

20. Special Agents Apple and Tusa identified themselves. Both agents had badges. Both have arrest powers. Mr. Tusa carried a weapon and handcuffs. Mr. Danna was not a suspect; he was not arrested; he was not read his rights; he was not placed under oath. The agents advised Mr. Danna that there was an ongoing

criminal investigation into Mr. Recile's activities and that if Mr. Danna was involved, he would be arrested. The agents asked Mr. Danna what Mr. Talley was doing at the district office, who let him in, who authorized him to be there, who supervised his activities, what security measures were in place to protect the records, and similar questions. The agents also asked Mr. Danna about his relationship with Mr. Recile and the other criminal defendants. At the end of the interview, the agents instructed Mr. Danna not to talk to the other interviewees about the interview and gave him other instructions. Mr. Danna's understanding of the instructions was that he could only talk about the interview with Mr. Scallan, Mr. Dousay, and Mr. Durant and that if he talked to anyone else he would be arrested and charged with perjury.<sup>3</sup> Mr. Danna felt intimidated by the agents: they had shouted at him and one had pounded the table with his hand. Mr. Danna was afraid they would arrest him, even though he had done nothing wrong.

21. Shortly after the interview, Mr. Danna was seen talking to Ms. Poirrier and Mr. Gist. Word got back to Mr. Scallan, who notified the agents. The agents returned to DOTD on July 6, 2006. Mr. Scallan called Mr. Danna into his office. He asked Mr. Danna if he had been talking to anyone about the interview. Mr. Danna said he did not recall talking to anyone. Mr. Scallan then told Mr. Danna that the agents were back and wanted to see him.

22. Agents Apple and Tusa interviewed Mr. Danna again. They asked him who he had talked to and what he had discussed. Mr. Danna initially denied having talked to anyone. The agents again advised Mr. Danna that if they found out that he had discussed the interview, he could be arrested for obstruction of justice. Again, Mr. Danna felt intimidated and feared arrest. After the interview, Mr. Danna remembered that he had talked briefly to Mr. Gist. He went back and told this to the agents.

23. Johnny Bradberry, DOTD Secretary, asked Human Resources to investigate why DOTD employees were allowing Mr. Talley unsupervised access to the office. Someone in Human Resources asked Craig Kimball, Attorney, to conduct the investigation. Mr. Kimball understood that Mr. Bradberry had requested the investigation and that his concerns were what access Mr. Talley had to the office, whether he had looked at or taken records, whether he had interviewed any employees, whether he was sending and receiving faxes from the DOTD office, how he had marshaled the number of cases he had against DOTD without listings in the business section or yellow pages of the phone directory, how he had gotten the names of potential clients, and whether any appraisal information had been disclosed.

24. On July 14, 2006, Mr. Scallan suspended Mr. Danna with pay until further notice and told him that Human Resources would contact him shortly. Mr. Danna did not tell Mr. Scallan that the agents' instructions prevented him from talking to Human Resources. Mr. Gist, Ms. Poirrier, and Mr. Delpit were also suspended with pay.

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<sup>3</sup> Agent Apple testified that he told Mr. Danna that he could only talk about the interview with Mr. Scallan, Mr. Dousay, Mr. Durant, Legal, and Human Resources, and that if he talked to anyone else about the interview, he could be charged with obstruction of justice.

25. Mr. Kimball asked Mr. Scallan to contact the four employees. On July 17, 2006, Mr. Scallan called Mr. Danna at home and ordered him to appear at DOTD's real estate office at 9:00 a.m., on July 21, 2006, to answer Human Resources' questions. Mr. Scallan asked if there was any reason Mr. Danna could not be there. Mr. Danna said he would be there. Again, Mr. Danna said nothing about the agents' instructions preventing him from talking to Human Resources.

26. On July 21, 2006, Mr. Kimball and Ranzy Montet (Human Resources Manager) drove from their office at DOTD Headquarters, located at 1201 Capitol Access Road in Baton Rouge to the real estate office for 9:00 a.m. Mr. Scallan was also present. Mr. Danna did not appear. At about 10:00 a.m., Mr. Kimball called Mr. Danna and left a message on his answering machine. At about 11:00 a.m., Mr. Danna called Mr. Kimball, told him that the Attorney General's office had given him a hard time, that he was not going to be subjected to that type of treatment, that he would not come in for questioning, and that he had hired Mr. Talley as his attorney. Mr. Danna said nothing about the agents' instructions.

27. Mr. Kimball called Mr. Talley three times on July 21, 2006, and left messages for Mr. Talley to call him. Mr. Talley did not return the calls.

28. By letter dated July 21, 2006, sent certified mail, return receipt requested, to two different addresses,<sup>4</sup> Mr. Kimball advised Mr. Talley: that the appointing authority had ordered Mr. Danna to appear at 9:00 a.m., on July 24, 2006, at DOTD's real estate office "for the purposes of answering questions in connection with an internal administrative investigation;" that neither the statements given by Mr. Danna nor evidence derived from them could be used against Mr. Danna in any criminal proceeding; that by refusing to obey the order, Mr. Danna could be disciplined for insubordination; that the penalty could include termination; and that Mr. Talley could accompany Mr. Danna to the investigative meeting. Mr. Kimball asked Mr. Talley to advise his client of the direct order. Mr. Kimball also called Mr. Talley and left word for Mr. Talley to call him. Mr. Talley did not return the call, so Mr. Kimball called back and read the letter to Mr. Talley over his answering machine. The letter addressed to Mr. Talley at P. O. Box 46003, Baton Rouge, LA 70895 was returned "no such number; unable to forward." The letter addressed to Mr. Talley at 9541 Brookline Avenue, Baton Rouge LA 70809 was returned "unclaimed."

29. On July 24, 2006, Mr. Kimball and Mr. Montet again made the trip to the real estate office. Mr. Danna did not appear.

30. On July 31, 2006, Mr. Danna returned to work, unaware that his suspension with pay had been extended. Mr. Scallan advised Mr. Danna that he could not come back because he had not answered Human Resources' questions. Mr. Scallan told Mr. Danna that his failure to answer the questions could be considered insubordination and could result in his termination. Mr. Danna told Mr. Scallan that his attorney had advised

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<sup>4</sup> Mr. Kimball used the address on the Bar Association's website and the address listed in the residential section of the phone book.

him not to answer any questions, but he would be willing to do so if his attorney could be present. Again, Mr. Danna said nothing about the agents' instructions or that he could only talk to Mr. Scallan, Mr. Dousay, or Mr. Durant.

31. By letter dated August 15, 2006, Mr. Dousay ordered Mr. Danna to appear "for the purposes of answering questions in connection with an internal administrative investigation" at 9:00 a.m., on August 18, 2006, at DOTD's real estate office. The letter stated:

This is an internal administrative investigation made only for internal department purposes. The statements given by you cannot be used against you in any criminal investigation or proceeding, nor can evidence derived from the statements.

The letter advised Mr. Danna that his attorney could accompany him and warned him that refusal to obey the order could result in disciplinary action, including termination. Mr. Scallan handed this letter to Mr. Danna, who read and signed it on August 15, 2006.

32. Also by letter dated August 15, 2006, Mr. Dousay advised Mr. Danna that his termination from employment had been recommended for his actions on June 27, 2006, and his failure to appear for the investigations on July 21, 2006 and July 24, 2006. Mr. Scallan handed this letter to Mr. Danna, who signed it on August 15, 2006.

33. Mr. Danna appeared for the August 18, 2006 meeting as directed and waived his attorney's presence. Mr. Kimball, Mr. Scallan, and Ms. Leon were present. Mr. Danna said nothing about the agents' instructions, nor did he object to Mr. Kimball's or Ms. Leon's presence. Mr. Kimball asked Mr. Danna his name, address, and phone number, which questions Mr. Danna answered. Mr. Kimball then read an "ADVICE OF RIGHTS AND OBLIGATIONS" form to Mr. Danna, stopping after each paragraph to be sure Mr. Danna understood it. The form stated that the proceeding was an administrative investigation and that the information provided would be used for administrative purposes only. Mr. Danna understood this information; however, he did not believe it because he no longer trusted Mr. Scallan. The form further advised:

You are required to cooperatively, truthfully, completely and unevasively answer all questions posed to you. The person(s) conducting this investigation has full authority to do so and is acting on behalf of your appointing authority. Your refusal to cooperate in the investigative process will be viewed as insubordination, for which disciplinary action will be taken, including the possibility of termination from the classified service.

...

By signing below, you acknowledge that you have read and understand the rights and obligations related to this internal, administrative

investigation, and your signature acknowledges your intention to cooperatively and truthfully participate in the investigative process.

Mr. Danna signed the form. Again, he said nothing about the agents' instructions preventing him from cooperatively participating in the investigation.

34. While Mr. Kimball was reviewing the form with Mr. Danna, he answered questions concerning his education. (Mr. Danna is a college graduate.) Mr. Danna then stated:

My attorney, Mr. Talley, has instructed me already that by my just showing up here, no one can say I'm insubordinate by just showing up. So, I don't, this part about being insubordinate if I don't cooperate, just by my being here, I'm not being insubordinate. I don't, you know, Mr. Talley has already instructed me about that. So, I can't be charged with insubordination if I'm here.

35. Mr. Danna answered questions about when he last worked for DOTD and when he had last seen Ms. Poirrier. (Ms. Poirrier had claimed that she could not participate in the investigation because she was ill.) Mr. Danna told Mr. Kimball that he had met with Mr. Talley, Mr. Recife, Art Lott (a consultant), Mr. Gist, and Ms. Poirrier to discuss their suspensions. Mr. Kimball asked when the meeting was held. In response, Mr. Danna stated:

I don't remember. Before I go any further, I'm gonna just read this to you and let you know how I'm gonna proceed with this. 'In view of the ongoing criminal investigation by the Attorney General's Office, this has caused me to retain counselor, Mr. Robert Talley. I'm invoking my constitutional right to remain silent. Any further aspect of this matter should be reviewed with Mr. Talley. I am available to go back to work at anytime.' That's all I have to say regarding that.<sup>5</sup>

36. This series of questions and answers followed:

Mr. Kimball: "Regarding that particular issue?"

Mr. Danna: "Regarding everything."

Mr. Kimball: "Regarding?"

Mr. Danna: "Everything, anything pertaining to this suspension or what happened at Old Hammond Highway."

Mr. Kimball: "You're not going to discuss it?"

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<sup>5</sup> Mr. Danna testified that Mr. Talley's advice was to answer questions about his work performance or any projects he was working on, but that if a question made him uncomfortable, he did not have to answer it.

Mr. Danna: "I'm not gonna discuss it."

Mr. Kimball: "Ok."

Mr. Danna: "I have the constitutional right not to."

37. Mr. Kimball asked a series of questions to be certain that Mr. Danna had received the pre-deprivation letter, understood that Mr. Talley could have been present, had waived Mr. Talley's presence, and had received Mr. Dousay's August 15, 2006 order.

38. This series of questions and answers followed:

Mr. Kimball: "Then you understand that this is a direct order Mr. Dousay has issued to you, sir?"

Mr. Danna: "Ok, and I followed the order by being here."

Mr. Kimball: "Ok, well, it's a little bit more encompassing than that, and I want you to understand that. It orders you to answer questions."

Mr. Danna: "Well, you can say what you want. My attorney has advised me, just by my having showed up here, I'm not being insubordinate, and I'm not going any further than that. I'll read this to you again, if you like, but I'm, in view of the ongoing criminal investigation, that I've been advised of by the Attorney General's Office, the two men that already interrogated me and bullied me, intimidated me. This has caused me to retain counsel, Mr. Robert Talley and I'm invoking my constitutional right to remain silent. And you cannot make me say anything else regarding this. Any further aspect of this matter should be reviewed with Mr. Talley. I'm available to go back to work. That's all I have to say."

39. Mr. Danna admitted that he knew he was supposed to have given a statement on July 21, 2006, but answered no other questions concerning the matters set forth in the pre-deprivation letter. Mr. Kimball did not ask Mr. Danna what the special agents had asked him or what he told the special agents. At no point during the August 18, 2006 meeting did Mr. Danna mention the agents' instructions.

40. DOTD attempted to conduct Mr. Danna's pre-deprivation meeting on August 22, 2006. Mr. Talley would not allow his client to continue with the proceeding because DOTD planned to record it. Mr. Talley wanted the meeting videotaped. The meeting was rescheduled for August 23, 2006.

41. DOTD held Mr. Danna's pre-deprivation meeting on August 23, 2006. Mr. Talley told Mr. Kimball that he had been on an extended vacation until August 1, 2006. Mr. Talley also advised Mr. Kimball that he had called and left a message with Mr. Scallan's secretary. Mr. Kimball verified that Mr. Talley had called; however, the message had not

been relayed to Mr. Scallan or himself.<sup>6</sup> Neither Mr. Talley nor Mr. Danna mentioned the agents' instructions as the reason for Mr. Danna's actions.

42. Mr. Kimball contacted agent Apple to find out if Mr. Danna had provided any information that would help Mr. Kimball conclude his investigation. Mr. Apple would not reveal the information he had gathered. Mr. Kimball was never able to complete the investigation.

43. DOTD's Policy and Procedure Memorandum No. 29 addresses employee conduct. Among the disciplinable offenses are: failure to report for duty when instructed; failure to cooperate with or giving false information in authorized investigations; and insubordination or failure to promptly and cooperatively follow direct orders, instructions, or directives given by a supervisor.

44. DOTD dismissed Mr. Danna effective September 15, 2006. Between July 14, 2006 and his dismissal, Mr. Danna was on suspension with pay pending investigation – DOTD paid his full salary, with no reduction of his leave balances.<sup>7</sup>

45. Mr. Delpit cooperated with DOTD's investigation; he remains employed with DOTD. Ms. Poirrier and Mr. Gist did not cooperate; DOTD proposed their dismissals; they retired.

### Conclusions of Law

#### A. Preliminary Matters

DOTD did not discipline Mr. Danna for allowing Mr. Talley, unsupervised, in the office prior to 3:30 p.m. on June 27, 2006. Therefore, the issue here is not whether Mr. Talley had a right to inspect the records he was looking at or whether he had a right to be in the Old Hammond Highway at that time. As such, reliance on the Public Records Law is misplaced. DOTD disciplined Mr. Danna for subsequent insubordinate behavior.

In his post-hearing brief, counsel for Mr. Danna raises, for the first time, Mr. Dousay's lack of authority on September 7, 2006, to separate Mr. Danna. In support of this argument he attaches a copy of a memorandum dated July 14, 2006, from Mr. Dousay. The memorandum reads: "Effective this date, I am officially delegating and designating Lloyd P. Scallan as the appointing authority, in my absence, to officially handle all appointing authority matters for Section 23."

The memorandum was not offered into evidence at the hearing. Moreover, it contradicts Mr. Danna's testimony acknowledging that Mr. Dousay's August 15, 2006 order was an order from his appointing authority. Nonetheless, we will address the issue. A delegation of power is not a surrender of power. "The words 'surrender' and 'delegate'

<sup>6</sup> Mr. Kimball understood that Mr. Talley had called and merely advised of his representation of Mr. Danna.

<sup>7</sup> See Civil Service Rule 12.10.

do not have the same meaning. They are not synonymous and there is a well-recognized legal distinction between them. The former means to give up, to relinquish, to yield or resign in favor of another. The latter means entrusting power to another to act for the good of the one who authorizes him." [Citations omitted]" *Mouledoux v. Maestri*, 197 La. 526, 2 So.2d 11, 16 (1941). Thus, when an appointing authority delegates authority, he does not abdicate or relinquish the authority he has. He merely authorizes someone, in addition to himself, to take action.<sup>8</sup> Therefore, Mr. Danna's argument lacks merit.

#### B. The Merits

In disciplinary cases, the burden of proof, as to the facts, is on the appointing authority,<sup>9</sup> by a preponderance of evidence. *Wopara v. State Employees' Group Benefits Program*, 2002-2641 (La.App. 1 Cir. 7/2/03); 859 So.2d 67. DOTD carried this burden. On June 27, 2006, Mr. Danna violated a directive from a superior (Mr. Graves) not to let Mr. Talley back into the office. On July 21, 2006, Mr. Danna violated a directive from his Assistant Division Administrator (Mr. Scallan) to appear and answer questions. On August 18, 2006, Mr. Danna violated a directive from his Division Administrator (Mr. Dousay) to answer questions.<sup>10</sup>

Failure to follow a superior's directives is insubordination and cause for disciplinary action. The penalty is often dismissal, even for a first offense. So long as an order or directive does not ask the employee to do anything illegal, immoral, unethical, or in dereliction of duty, the employee must comply. *Department of Corrections, Louisiana State Penitentiary v. Cage*, 418 So.2d 3, 5 (La. App. 1 Cir. 1982), which upheld the termination of a corrections sergeant who took it upon herself to interpret the Civil Service Rules, concluded that a major's order to report to work on election day was illegal, and refused to comply. See also *Ben v. Housing Authority of New Orleans*, 2003-1664 (La.App. 1 Cir. 5/14/04); 879 So.2d 803, 807, which upheld the termination of a police officer for refusing to hand over a radio to his lieutenant as directed; and *Malone v. Department of Corrections, Louisiana Training Institute – Ball*, 468 So. 2d 839 (La. App. 1 Cir. 1985), which upheld the termination of a corrections officer who tore up the only copy of a statement after his superintendent told him he could not keep the statement in his possession.

The obligation to follow superiors' directives is not restricted to employees who work in paramilitary agencies and it applies to employees in all levels of the organization. See e.g., *King v. Department of Public Safety*, 236 La. 602, 108 So.2d 524, 526 (1959), which upheld the dismissal of an administrator who had cabinets repaired contrary to his agency head's orders; *Carbonell v. Department of Health and Human Resources*,

<sup>8</sup> From the date on the memorandum, it appears that its purpose was to authorize Mr. Scallan to suspend the four employees pending investigation.

<sup>9</sup> La. Const. Art. X, Sec. 8(A).

<sup>10</sup> Mr. Danna also failed to comply with his Division Administrator's order to appear and answer questions on July 24, 2006. However, it is possible that Mr. Danna was unaware of this order because the two letters to Mr. Talley were returned, undelivered.



444 So.2d 151 (La. App. 1 Cir. 1983), which upheld the termination of an administrator who took it upon herself to interpret the Civil Service Rules, concluded that her District Administrator's order to go to a different duty station was illegal, and refused to follow it; and *Jones v. Dept. of Health & Human Resources*, 430 So. 2d 1203 (La. App. 1 Cir. 1983), which upheld the dismissal of a nursing aide who refused to assist with a burn patient as requested by the RN in charge and refused to deliver lab work "stat" as ordered.

More specifically, an agency may direct an employee to answer work-related questions and may discipline an employee who refuses to do so. *Jones v. Department of Public Safety and Corrections*, 2004-1766 (La.App. 1 Cir. 9/23/2005); 923 So.2d 699, which upheld the termination of a corrections master sergeant accused of sexual harassment who refused to comply with a supervisor's instructions to submit to a polygraph examination; *Sterling v. Department of Public Safety & Corrections, Louisiana State Penitentiary*, 97-1959, 97-1960 and 97-1961 (La.App. 1 Cir. 9/25/98); 723 So.2d 448, which upheld the twenty-day suspension of a corrections sergeant accused of leave abuse who refused to comply with the investigator's orders to answer questions in an internal investigation; *Public Emp. Ass'n of New Orleans, Inc. v. City of New Orleans* 404 So.2d 537 (La.App. 4 Cir. 1981), which denied injunctive relief to city employees who, under threat of disciplinary action, were required by the Chief Administrative Officer to answer questions about outside employment; *Createur v. Department of Public Safety, Division of State Police*, 364 So.2d 155 (La.App. 1 Cir. 1978), which upheld the dismissal of a state trooper accused of non-criminal activity who refused to comply with a superior's order to take a polygraph; and *Lemoine v. Department of Police*, 301 So.2d 396 (La.App. 4 Cir. 1974), which upheld the suspensions of police officers accused of public bribery who refused to comply with an order from the Major over Internal Affairs to answer questions in an internal investigation.

Thus, Mr. Danna's failure to follow Mr. Graves' directive, his violation of Mr. Scallan's directive to appear for the purpose of answering questions on July 21, 2006, and his violation of Mr. Dousay's direct order to appear for the purpose of answering questions on August 18, 2006 constitute cause for disciplinary action. The remaining issues are whether Mr. Danna's actions were justified and whether the penalty is commensurate with the offense.

As to Mr. Graves' directive, Mr. Danna's defense, as articulated in the post-hearing brief, is two-fold: he denies that there was a clearly communicated directive and he disputes Mr. Graves' authority to give him a directive. Mr. Danna's own testimony defeats this argument. Mr. Danna testified that Mr. Graves told him, "There's no way Rob Talley should be in this office" and "we can't have him coming here any more." In response to Commissioner Cain's questions about why, after Mr. Graves had shouted at him, he had let Mr. Talley back into the office on June 27, 2006. Mr. Danna testified that he was aware that Mr. Graves "and others" did not want Mr. Talley at the office and he was going to tell Mr. Talley so, but the police arrived before he could. Thus, Mr. Danna understood the directive; there was no lack of clarity. Mr. Danna also understood that the directive had come from a superior (a manager in his division) and was to have

been followed. Furthermore, Mr. Danna knew that Mr. Graves had called headquarters and likely knew that the directive originated at the headquarters level. In any event, an employee's obligation is to follow directives of his superiors, not just supervisors in his chain of command. For these reasons, we conclude that Mr. Danna's failure to follow Mr. Graves' directive was not justified.

As to his failure to cooperate in the internal investigation, Mr. Danna's defense, as articulated in the post-hearing brief is as follows: Mr. Scallan deliberately interjected law enforcement into the situation; law enforcement officers ordered Mr. Danna not to talk to anyone other than Mr. Scallan, Mr. Dousay, or Mr. Durant or he would be arrested; and, therefore, he could not discuss the pertinent matters with Mr. Kimball or Ms. Leon without violating the officers' orders, thereby subjecting himself to arrest. Counsel argues: "On August 18, 2006, Mr. Danna was not concerned that information developed via the investigative process would be released to law enforcement or prosecutorial authorities. It was, rather, the fact of the communication which would subject him to arrest and criminal charges."

There are several flaws in this argument. First, even if the agents' instructions were as Mr. Danna understood them, they would not excuse Mr. Danna from answering questions in Mr. Scallan's presence. (Had Mr. Danna made them aware of the problem, Mr. Kimball and Ms. Leon could have left the meeting.) Second, even if the agents' instruction were as Mr. Danna understood them, they had not become applicable because Mr. Kimball had not asked Mr. Danna even one question about his interview with the Attorney General's agents before Mr. Danna stopped answering questions. Third, we do not believe that Mr. Danna understood the agents' instructions correctly. Agent Apple testified that he included Legal and Human Resources in the list of people Mr. Danna could talk to. Mr. Danna obviously misunderstood at least part of the instructions – *i.e.*, that he could be charged with perjury if he violated the instructions. He likely misunderstood the substance of the instructions as well.

However, the major flaw in Mr. Danna's argument is that it appears to have been manufactured as an after-the-fact excuse. Mr. Danna wanted to keep his job. If he believed there was a legal impediment to his answering questions, his interest was best served by saying so. Several opportunities presented themselves for Mr. Danna to explain his perceived predicament: on July 14, 2006, when Mr. Scallan suspended him and told him that Human Resources would contact him shortly; on July 18, 2006, when Mr. Scallan told him to come in on July 21, 2006, to answer Human Resources' questions; on July 21, 2006, when he talked to Mr. Kimball about why he did not appear; on July 31, 2006, when Mr. Scallan told him he could not come back to work until he answered Human Resources' questions; on August 18, 2006, at the beginning of the investigative meeting, when he saw who was there; on August 18, 2006, during the investigative meeting, when he signed the certificate acknowledging his "intention to cooperatively and truthfully participate in the investigative process" notwithstanding Mr. Kimball's and Ms. Leon's presence; on August 18, 2006, toward the end of the investigative meeting when he explained why he was not going to answer any more questions; on August 22, 2006, during the first pre-deprivation hearing; and on August

23, 2006, during the second pre-deprivation hearing. Had Mr. Danna made DOTD aware of his perceived predicament, DOTD could have determined if Mr. Danna's understanding was correct and could have made appropriate arrangements. But the fact remains, until the day he was dismissed, Mr. Danna never told DOTD that he believed the agents' instructions prevented him from answering questions if anyone other than Mr. Scallan, Mr. Dousay, or Mr. Durant were present.<sup>11</sup> Instead, he gave completely different explanations: the Attorney General's office had given him a hard time and he was not going to be subjected to that type of treatment and he would answer questions if his attorney could be present. Thus, Mr. Danna's defense is not credible. Moreover, if an employee believes there is a legal reason for not following his superiors' directives, he is obligated to timely articulate that reason or face the consequences for his silence.

Mr. Danna apparently believed that he could appear for the investigative meeting, refuse to answer questions, assert Fifth Amendment rights and escape disciplinary action. However, the law is clear that he cannot. The Fifth Amendment to the U. S. Constitution provides: "No person ... shall be compelled in any criminal case to be a witness against himself." There is no such privilege in civil matters. When, as here, an employee is given the option of answering questions in an internal, administrative investigation or being fired, the statements the employee gives cannot be used in any subsequent criminal proceeding. *Garrity v. State of New Jersey*, 87 S.Ct. 616, 620 (1967); *Evans v. DeRidder Municipal Fire and Police Civil Service Board*, 2001-2466 (La. 4/3/02); 815 So.2d 61; *Public Emp. Ass'n of New Orleans, Inc., supra*; *Frey v. Department of Police*, 288 So.2d 410 (La.App. 4 Cir. 1973); *Dieck v. Department of Police*, 266 So.2d 500 (La.App. 4 Cir. 1972), concurring opinion. The employee acquires a "use plus derivative use immunity," meaning that neither his statements nor information derived from them can be used against him in a criminal proceeding. *State v. Delcambre*, 1997-1447 (La.App. 3 Cir. 4/29/98); 710 So.2d 846. The employer cannot require the employee to waive this immunity, nor can the employer discipline the employee for refusing to waive this immunity. *Gardner v. Broderick*, 88 S.Ct. 1913 (1968); *United Sanitation Men's Association v. Commissioner of Sanitation*, 88 S.Ct. 1917 (1968). The employee exercises this privilege by filing a motion to quash the indictment or a motion to suppress evidence if there is any subsequent criminal proceeding. The burden will be on the prosecuting authority to prove that the evidence it proposes to use was derived from a legitimate source wholly independent of the compelled statements. *State v. Foster*, 2002-1259 (La.App. 1 Cir. 2/14/03); 845 So.2d 393. Therefore, when ordered to answer work-related questions, the employee cannot escape disciplinary action by asserting rights under the Fifth Amendment – as long as the employee is not required to waive his *Garrity* immunity. This principle applies whether or not the employer's allegations would constitute a crime. See, *Jones, supra*; *Sterling, supra*; and *Lemoine, supra*.

Here, DOTD repeatedly advised Mr. Danna that the statements he gave and any evidence derived from those statements could not be used against him in any criminal proceeding. DOTD never asked (much less coerced or required) Mr. Danna to waive

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<sup>11</sup> Mr. Danna did not even raise this defense in his appeal.

this immunity. Under these circumstances, Mr. Danna cannot escape disciplinary action for his repeated, insubordinate conduct.

Mr. Danna argues that an order to answer questions is subject to an exception of reasonableness, citing *Williams v. Department of Health and Hospitals*, Docket No. S-13895, decided 1/12/01. In *Williams*, the agency dismissed the employee for failing to submit to a polygraph examination. The referee agreed that the agency had a legitimate reason for ordering the polygraph: an employee claimed that while she was at work, someone put a foreign substance in her water bottle and the investigation results were inconclusive. However, the Referee reversed the dismissal and concluded that the agency was unreasonable because: the agency scheduled the examination during a time when the employee was ill, under a doctor's care, on medication, on certified FMLA, and unable to perform her duties and gave her only three working days notice of the examination, during which time she had to seek legal advice, research agency policy, and research possible criminal consequence; the agency refused to grant the employee's request to reschedule the examination to a date her attorney was available; and the agency allowed the employee to return to work for a month, but never rescheduled the polygraph examination. Similarly, in *Jackson v. Department of Health and Hospitals, Office for Citizens with Developmental Disabilities*, 1998-2772 (La.App. 1 Cir. 2/18/00); 752 So.2d 357, the agency dismissed the employee for failing to submit to a polygraph examination, but the Commission reversed the dismissal. Based on a prior experience, the employee was afraid of the effect of the wires on her.<sup>12</sup> The Commission concluded that considering her past experience, the employee was not unreasonable in voicing her initial refusal to take the test and that the agency was unreasonable in not trying to allay her fears. The Court of Appeal affirmed the Commission's decision and listed the following as mitigating factors: 1) Ms. Jackson was not accused of abuse or witnessing abuse, 2) the length of time between the request to take the polygraph test and a follow-up by the appointing authority was excessive, 3) the appointing authority failed to adequately ascertain why she initially refused to be tested, 4) the appointing authority failed to attempt to allay her fears of the test, and 5) the investigation was completed without the necessity of her taking the test. *Id.*, 365.

The mitigating factors present in *Williams* and *Jackson* do not exist here. DOTD twice rescheduled Mr. Danna's investigative meeting, first because Mr. Danna said he had retained counsel, and second because there may have been a notice problem. Although DOTD only gave Mr. Danna three days' notice of the third scheduling, Mr. Danna had been on notice for over a month that he would be expected to answer Human Resources' questions. DOTD even allowed Mr. Danna to have his attorney present, which opportunity Mr. Danna waived. DOTD repeatedly advised Mr. Danna that he had to answer the questions or face disciplinary action, including termination, but that his answers and any evidence derived from them could not be used in any criminal proceeding. DOTD addressed each of Mr. Danna's articulated reasons for not answering the questions. DOTD was never able to complete the investigation.

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<sup>12</sup> The employee had previously been hooked up to wires and a machine and had suffered a miscarriage.

DOTD had a legitimate concern about Mr. Talley's apparent longstanding, unrestricted access to the office. DOTD had a legitimate concern about why Mr. Danna let Mr. Talley back into the office two hours after being told "we can't have him coming here any more." DOTD had a legitimate concern about whether its records had been compromised or inappropriately shared with Mr. Talley or Mr. Recile. DOTD was well within its authority and was not unreasonable in ordering Mr. Danna to answer questions. There are no mitigating factors justifying Mr. Danna's refusal to obey Mr. Scallan's directives to appear for purposes of answering questions on July 21, 2006, and Mr. Dousay's direct order to appear for the purpose of answering questions on August 18, 2006.

Mr. Danna's final argument is that dismissal is an excessive penalty. We recognize that Mr. Danna had fifteen years of state service, with no prior disciplinary record. However, Mr. Danna's insubordinate behavior was not a single event. It was deliberate, intentional, and protracted. Mr. Kimball and Mr. Montet made two wasted trips to the real estate office. Mr. Kimball spent a significant amount of time attempting to contact Mr. Danna's counsel. It took DOTD nearly a month just to get Mr. Danna to appear at the real estate office as directed, and then he refused to cooperate with the investigation. All this time, DOTD was paying Mr. Danna's salary. His dismissal was warranted; we deny this appeal.

s/ James A. Smith

James A. Smith, Chairman

s/ Burl Cain

Burl Cain, Vice Chairman

s/Rosa B. Jackson

Rosa B. Jackson, Member

s/Chatham H. Reed

Chatham H. Reed, Member