

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

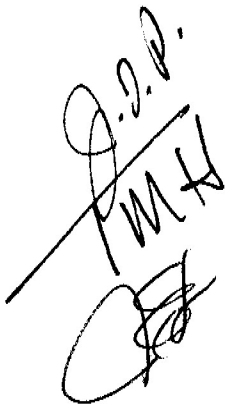
NO. 2010 CA 1169

LINDA CRAWFORD

VERSUS

SOUTHERN UNIVERSITY – BATON ROUGE CAMPUS

Judgment rendered February 11, 2011.



FLOYD J. FALCON, JR.
BATON ROUGE, LA

JASON M. DECUIR
BATON ROUGE, LA

Appealed from the
Civil Service Commission
in and for the State of Louisiana
Docket No. 16761
Honorable James A. Smith, Chairman

ATTORNEY FOR
PLAINTIFF-APPELLANT
LINDA CRAWFORD

ATTORNEY FOR
DEFENDANT-APPELLEE
SOUTHERN UNIVERSITY
BATON ROUGE CAMPUS

BEFORE: KUHN, PETTIGREW, AND HIGGINBOTHAM, JJ.

PETTIGREW, J.

In this case, appellant, Linda Crawford, seeks review of a ruling by the Civil Service Commission for the State of Louisiana ("Commission") that dismissed her appeal of the five-day suspension without pay that was imposed upon her by her employer, Southern University ("Southern"). For the following reasons, we affirm.

DISCUSSION

According to the record, Ms. Crawford is employed by Southern as an Administrative Assistant IV in the Physical Plant Department located at the Baton Rouge campus where she serves with permanent status. In a letter dated September 21, 2009, Southern suspended Ms. Crawford, without pay, for five days effective September 28, 2009. Southern alleges that on June 17, 2009, Ms. Crawford took an extended lunch period without permission and, while in the Southern cafeteria, used obscene and abusive language in a conversation with a co-worker. The September 21, 2009 letter charges, in pertinent part, as follows:

On June 17, 2009, at approximately 11:00 a.m., you were observed and heard by an Aramark employee, Ms. Karen Ashford, and others using profanity in a conversation with another Southern University employee, Sybil Joseph, while indicating your dissatisfaction with your meal choice. One statement that you made was, "I don't want to even eat this shit." Your language could be heard by those around you, including minor children. You continued to use the terms "shit" and "damn" so much in complaining about the food that Ms. Ashford addressed you by stating that "you are welcomed not to dine with us (in the cafeteria)" and that "your language was not necessary." At this point, you became very defensive and began talking louder. A witness, Ms. Tonya Loupe, and Ms. Ashford indicated that you called Ms. Ashford a "nappy headed bitch" and used other defamatory comments in the presence of camp participants, university faculty and staff and dining hall employees. Even after being told repeatedly that your language and behavior were unnecessary and inappropriate, you still continued to shout obscenities. Although you displayed this type of behavior and dissatisfaction with the food, it was reported that you remained in the cafeteria for a lengthy period of time that went past your scheduled lunch break from 12:00 to 1:00 p.m.; resulting in you leaving early and reporting back to your work station late.

Thereafter, Ms. Crawford appealed her suspension to the Commission, denying the factual allegations and conclusions in the September 21, 2009 letter and alleging that the allegations against her were vague, indefinite, and should be stricken. The matter was heard on December 18, 2009, by Commission Referee Kathe Zolman-Russell. After

hearing the testimony and considering the documentary evidence, the referee rendered a decision on March 26, 2010. With regard to the first charge, i.e., taking an extended lunch period, the referee found that there was no evidence that placed Ms. Crawford in the dining hall beyond 12:30 p.m., which was well before the end of her scheduled lunch hour of 1:00 p.m. Thus, the referee concluded, Southern had failed to prove that Ms. Crawford had taken an extended lunch period without permission. With regard to the second charge, i.e., using obscene and abusive language and behaving in a disrespectful and/or unprofessional manner toward Ms. Ashford, the referee found the testimony of Ms. Ashford and Ms. Loupe to be credible and, therefore, concluded that Southern had proven cause for discipline regarding this charge. The referee noted, "Ms. Crawford's behavior was clearly unprofessional, inappropriate, and reflected poorly on [Southern]. Her comments to Ms. Ashford were intended to offend and insult her." The referee further stated, "Based upon the foregoing reasons, I conclude that the proven charge standing alone is legal cause for discipline and that the penalty imposed, a five (5) day suspension, is commensurate with the offense. Accordingly, I hereby dismiss this appeal." The instant appeal by Ms. Crawford followed. In brief to this court, Ms. Crawford challenges the factual findings of the Commission, as well as its conclusions of law.

In **Mathieu v. New Orleans Public Library**, 2009-2746 (La. 10/19/10), ___ So.3d ___, the Louisiana Supreme Court set forth the standard of review in civil service disciplinary cases as follows:

Appellate courts reviewing civil service disciplinary cases are presented with a multifaceted review function. Initially, deference should be given to the factual conclusions of the civil service commission. A reviewing court should apply the clearly wrong or manifest error rule prescribed generally for appellate review. Then, the court must evaluate the commission's imposition of a particular disciplinary action to determine if it is both based on legal cause and is commensurate with the infraction; the court should not modify the commission's order unless it is arbitrary, capricious, or characterized by abuse of discretion. "Arbitrary or capricious" means the absence of a rational basis for the action taken, "abuse of discretion" generally results from a conclusion reached capriciously or in an arbitrary manner.

Mathieu, 2009-2746 at 3, ___ So.3d at ___ (citations omitted).

After a thorough review of the record, we find no manifest error by the Commission. As such, we decline to disturb its findings of fact. Further, as to the penalty imposed, we find that the five-day suspension without pay was based on legal cause and commensurate with Ms. Crawford's infraction. We conclude that the Commission's decision to uphold Ms. Crawford's suspension and dismiss her appeal was not arbitrary, capricious, or characterized by an abuse of discretion.

CONCLUSION

For the above and foregoing reasons, we affirm the decision of the Commission in accordance with Uniform Rules--Courts of Appeal, Rule 2-16.1.B. All costs associated with this appeal are assessed against appellant, Linda Crawford.

AFFIRMED.