




Department of Public Protection
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Date: January 6, 2023
To: Mark Flowers, Director Corrections
From: Mark Swanson, Public Protection Department Director 
Subject: Notice of Dismissal

Purpose: The purpose of this memorandum is to provide you notice of your dismissal from employment with the County of Volusia.

Information: In May 2022, several officers and command staff from VCDC came to Human Resources to file complaints about a hostile work environment under your leadership at the jail. Based on these complaints, Human Resources initiated an internal investigation into the hostile work environment claims. These complaints also resulted in an Internal Affairs investigation being conducted into allegations that you directed staff to treat inmates improperly or possibly illegally. These investigations resulted in findings that you engaged in instances of mismanagement as well as on-going violations of VCDC policies.

A Notice of Intent to Dismiss was provided to you on Friday, December 7, 2022, which allowed you the opportunity to respond to the notice. We met on Thursday, December 22, 2022 at which time you provided a response to the notice through your counsel.

Conclusion: Based on close review of the circumstances surrounding your actions, it is my conclusion that you engaged in the actions as outlined in the Notice of Intent to Dismiss which violated the following Merit System Rules and Regulations:

Volusia County Merit System Rules and Regulations—Division 13 Reasons for Disciplinary Actions Sec 86-453 Reasons for Disciplinary Action (1), (2), (9), (12), (22):

- (1) *Willful neglect in the performance of the duties of the position to which the employee is assigned.*
- (2) *Disregard for or frequent violations of county ordinances, departmental policies and regulations, including safety rules.*
- (9) *Any conduct, on or off duty, that interferes with effective job performance or has an adverse effect on the county.*

- (12) Incompetent or unsatisfactory performance of duties.*
- (22) Any other conduct or action of such seriousness that disciplinary action is considered warranted.*

Conduct of this nature is contrary to the standards of professionalism expected from Public Protection Department personnel. This action unfavorably reflects on the Public Protection Department, Corrections Division and Volusia County Government.

In reaching this conclusion, I have considered your December 22 response. I find that it is unavailing. For example, your attorney raised a concern that the County violated your rights under Section 112.532, Florida Statutes, also known as the Law Enforcement and Correctional Officer's Bill of Rights. However, as Director of the Corrections Division, your position does not meet the definition of a corrections officer under Section 112.531(1), and, therefore, Section 112.532 is not applicable to you. Your attorney also asserted that any belief by the Corrections command staff that violations of policies of the Corrections Division and the Florida Model Jail Standards were committed is due to their lack of understanding of these policies and standards. However, as outlined in more detail in the memos produced as a result of the County's investigations, numerous policies and standards were violated at your instruction. In addition, you allege that the inmate that you directed to be four-pointed face down was done with approval to do so from Dr. Gil-Pineda. An interview with Dr. Gil-Pineda revealed that no such approval was given. You also continue to allege that your May 12 request for an Internal Affairs investigation into the Caruthers incident was prompted by a discussion with Investigator Ray Manchester in which he indicated that Caruthers' cellmate did not cause Caruthers' injuries. However, Investigator Manchester has indicated that this discussion did not occur as you state. Lastly, contrary to your claims, your May 12 request for an Internal Affairs investigation and/or your medical condition had nothing to do with any actions taken against you by the County. Instead, each was a result of your own conduct.

Even if you had not engaged in any misconduct, it is apparent that you have lost the confidence of most, if not all, of your command staff and many of the corrections officers. When asked about a path forward for you to regain their trust and respect, none stated that the path forward included you as the Director. While I recognize that you now claim that members of the command staff are incompetent and need to be fired, it is important to note that you were the one who promoted them into command staff positions. When asked during the HR Investigation what the path forward was for you to remain the Corrections Director, your response was in essence that it was the County's issue not yours. At the December 22 meeting, your counsel answered the same question by stating that "we don't think that is true." That you don't recognize that there are confidence and trust issues between you and Corrections staff, and that you need to be part of the solution, is a clear indication that that you are unable to lead the Corrections Division going forward. Thus, even in the absence of any misconduct, I would be ending your at-will employment as Corrections Director for this reason alone.

Therefore, my decision to dismiss you from employment with the County of Volusia stands. Your dismissal is effective the date of your receipt of this letter.

I certify I have read this notification and acknowledge receipt of the original copy.



SIGNATURE OF EMPLOYEE



DATE AND TIME RECEIVED

cc: Heather Wallace, Deputy County Attorney
Dana Paige-Pender, Human Resources Director
Tammy King, Activity Projects Manager
