

8-20-03

PINELLAS COUNTY SHERIFF'S OFFICE CIVIL SERVICE BOARD

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

KENNETH DAVIS,

Petitioner,

AP

-vs-

PSCO Case No. 03-2
DOAH Case No. 03-0950

FLB-2605

EVERETT S. RICE,
PINELLAS COUNTY SHERIFF

Respondent.

_____ /

FINAL ORDER

THIS CAUSE having come before the PINELLAS COUNTY SHERIFF'S CIVIL SERVICE REVIEW BOARD (BOARD) upon exceptions which were timely filed by KENNETH DAVIS, a hearing having been held on October 29, 2003, argument having been received from counsel for both parties, and the BOARD having considered the Recommended Order of the State of Florida, Division of Administrative Hearings Administrative Law Judge in the matter, and having determined, by a vote of 5-0 as follows:

IT IS FOUND that the Administrative Law Judge's recommendation relating to the ten (10) day suspension was appropriate.

IT IS FURTHER FOUND that the findings of fact and law and recommendations relating to the reassignment of the Petitioner from the position of Corporal to Deputy was not based on competent and substantial evidence in that the preponderance of the evidence submitted before the Administrative Law Judge proved that the position of Corporal was an assignment, not a


rank, and, therefore, the recommendation of the Administrative Law Judge that the Petitioner be reinstated to the position was contrary to law. It is therefore

DECIDED that the Exceptions be granted and the Recommended Order of the Administrative Law Judge be amended as follows: hereby GRANTS the Exceptions and MODIFIES the Recommended Order of the Hearing Officer as follows:

1. Based upon the testimony of Major Brunner, the BOARD finds that the Petitioner was not demoted from the rank of detention corporal to the rank of detention deputy, but was reassigned.
2. As such, it is found that the competent and substantial evidence supports a finding that the reassignment was not related to discipline and, therefore, was within the Respondent's sole discretion.

ORDERED that the Recommended Order of the Administrative Law Judge is adopted with regard to the suspension of KENNETH DAVIS only and that portion of the Hearing Officer's order relating to his reinstatement as Corporal is reversed as its Final Order in this cause.

IT IS SO ORDERED dated this 4TH day of November, 2003.



Neal A. White, Chair,
Pinellas County Sheriff's Civil
Service Board

Copies to:
Fred L. Buckine, Administrative Law Judge
Jean Kwall, Esquire
Keith C. Tischler, Esquire
William Laubach, Esquire
Members, Sheriff's Civil Service Board

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