

FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY
BOARD OF TRUSTEES

FLORIDA A&M UNIVERSITY BOARD
OF TRUSTEES,

Petitioner,

v.
MAR'SHELL L. SMILEY,

FAMU Case No. 10-003
DOAH Case No. 10-9221

Respondent.

FINAL ORDER

On February 7, 2011, Administrative Law Judge Suzanne F. Hood, with the Division of Administrative Hearings, submitted a Recommended Order in the above-styled case. Neither party filed exceptions to the Recommended Order. The matter is now before Florida Agricultural and Mechanical University Board of Trustees (FAMU or Petitioner) for final action.

PRELIMINARY STATEMENT

Respondent, Mar'Shell Smiley, during all times material to this proceeding, worked for FAMU as office manager in the University's Facilities Planning and Construction office. By letter dated May 28, 2010, FAMU notified Respondent of the University's intent to dismiss her from employment as a result of allegations of misconduct at the University's Facilities Planning and Construction office. The notice provided to Respondent also advised that the University's decision was based on Respondent's alleged violation of FAMU Regulations 1.019(4), 10.111(1), 10.122(2), 10.302(3)(y), and 10.302(3)(cc). The May 28, 2010, letter further advised Respondent of her right to request a predetermination conference where she would have the opportunity to present an oral or written statement, or both, to refute or explain the charges against her. Per Respondent's request, a predetermination conference was held on June 23, 2010. During the predetermination conference, Respondent failed to present any evidence that justified reversal of the University's decision to carry out the proposed employment action. By letter dated June 29, 2010, Respondent was notified by the University that she was dismissed

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from employment effective at the close of business on July 1, 2010. The notice of dismissal cited the same FAMU Regulations that were referenced in the letter of May 28, 2010.

This matter was referred to the Division of Administrative Hearings and a final hearing was held on December 13, 2010. Administrative Law Judge Suzanne F. Hood presided over the final hearing. During the hearing, the University and Respondent offered testimony and exhibits. A transcript of the proceedings was filed with the Division of Administrative Hearings on January 5, 2011. Each party submitted a Proposed Recommended Order to the Administrative Law Judge.

STATEMENT OF THE ISSUE

The issue is whether FAMU properly determined that Respondent's employment should be terminated for violating certain work standards.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

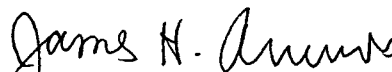
FAMU hereby accepts and incorporates by reference the Findings of Fact and Conclusions of Law set forth in the Administrative Law Judge's Recommended Order. A copy of the Recommended Order is attached hereto as Exhibit 1.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED and DIRECTED that the Recommendation of the Administrative Law Judge is ADOPTED.

THEREFORE, Respondent's July 1, 2010, dismissal from employment is hereby ratified.

DONE and ORDERED this 9th day of March, 2011.



James H. Ammons
President

Filed with FAMU this
9th day of March, 2011.



Abigail V. Raddar
FAMU Clerk

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the Agency Clerk of Florida Agricultural and Mechanical University Board of Trustees, Office of the General Counsel, Lee Hall, Suite 300, Tallahassee, Florida 32307, and a second copy, accompanied by filing fees prescribed by law, with the First District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days of rendition of this Final Order.

Copy: Ms. Mar'Shell Smiley, c/o Theodore E. Mack, Esquire
Teresa Hardee, Vice President, Administrative and Financial Services
Nellie C. Woodruff, Associate Vice President, Human Resources
Avery McKnight, General Counsel
Linzie F. Bogan, Associate General Counsel, Director of Labor Relations
Claudia Llado, Clerk, Division of Administrative Hearings