



6. Judge Larsen reviewed the evidence from the States Attorney as well as the Respondent's attorney and remanded the matter back to the Merit Board for reconsideration consistent with the court's ruling.

5. Dr. Byron Brazier was the hearing officer.

**Background:** By a complaint dated October 20, 2011, Sheriff Tom Dart sought the termination of Correctional Officer Gene Michno.

The complaint alleged that the Respondent applied for and was granted a one year leave of absence to occur from December 31, 2007 until December 31, 2008. And that after the Leave of Absence expired, the Respondent failed to report to the Medical Unit and failed to renew his Leave of Absence or in the alternative to return to work from his leave.

That on January 12, 2009, April 1, 2009 and May 7, 2009, Personnel Director Rosemarie Nolan sent via certified mail to Respondent advising him that the Leave of Absence had expired and ordered him to report to the Cook County Medical Unit and the Respondent failed to report.

Because the Respondent failed to report or be granted an Authorized status, or report to the medical unit, the Respondent abandoned his employment with the Cook County Sheriff's Department.

The Sheriff has concluded that the above actions violated the Rules and Regulations of the Cook County Department of Corrections, specifically:

General Order 3.8 Section III A-4, D-7

General Order 3.21 Section IV B

General order 4.1 Section III A-15,

General Order 4.2.1 Section II E-11, E-15

Cook County Sheriff's Merit Board Rules and regulations, Article X, paragraph B, section (3).

**Issues Presented:** In a brief provided by the Cook County States Attorney representing the Sheriff of Cook County states that on August 27, 2014, the Circuit Court of Cook County vacated the Cook County Sheriff's Merit Board's original decision and remanded this matter to the merit board for reconsideration of its decision in a manner consistent with the court's ruling on remand. According to the brief, the Merit Board must first consider whether Gene Michno violated any of the Sheriff's policies regarding attendance, leaves of absence, and return to work. Second, the merit board must then consider the punishment of the respondents violation of these policies.

The States Attorney and the Respondent's attorney submitted briefs in the matter and a hearing was held on the matter. The Sheriff concluded that for the following reasons, the Merit Board should enter findings that the respondent failed to comply with the Sheriff's policies and because the respondent failed file the necessary paperwork to extend his leave, failed to return to work, and effectively abandoned his positions with the Sheriff's office and must be separated from employment.

The position of the Respondent's attorney is that the Circuit Court did not reverse the Board's decision but instead merely remanded the matter in order to allow the board to clarify certain points in the Board's order. They conclude that the Circuit Court asked the Merit Board to set forth with specificity the evidentiary points that support the board's factual findings. Second the court asked the board to separate its liability and penalty analysis. That is the court asked the board to first set forth its reasoning regarding whether respondent violated any general orders and then if necessary, to set forth its reasoning regarding why no discipline is warranted.

#### **Clarification of the Merit Board's order as prescribed by Judge Larson**

There are two specific charges in the original complaint.

1. The original complaint charges that the respondent failed to return to work and failed to request will be granted an authorized status prior to the expiration of his leave of absence.
2. And that since January 23, 2009 respondent failed to report for work and has failed to report to the medical unit thereby abandoning his employment with the Cook County Sheriff Department.

Based on the evidence and testimony presented in the merit board hearing, the briefs that were presented by the States Attorney and the Respondent's attorney, it is the conclusion of the Merit Board that the respondent failed to submit a written request for leave of absence at least 14 days prior to the termination of his previous leave and has since been unable to return to work.

Therefore the respondent violated:

General Order 3.8 Section III A-4, D-7

General Order 3.21 Section IV B

General order 4.1 Section III A-15,

General Order 4.2.1 Section II E-11, E-15

Cook County Sheriff's Merit Board Rules and regulations, Article X, paragraph B, section (3).  
the reinstatement procedures of General Order 3.21 IV-B.

Furthermore, the States Attorney provided a compelling argument concerning the mitigation ruling of the Merit Board that substantiated the ongoing communications between the Sheriff's Personnel Department and the Respondent as the responsibility of the employer.

Therefore it is the ruling of the Merit Board that Mr. Gene Michno be terminated from employment effective October 20, 2011.

Gene Michno - Correctional Officer - Docket Number 1621



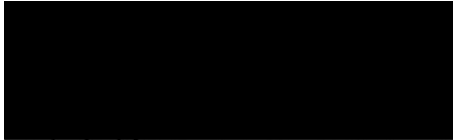
James P. Nally, Chairman



Byron Brazier, Vice Chairman



Brian Riordan, Board Member



Jennifer E. Bae, Board Member



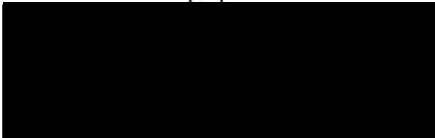
John Dalicandro, Secretary



Vince Winters, Board Member



Kim R. Widup, Board Member



Patrick Brady, Board Member

June 11, 2015