



Transportation
Security
Administration

Interoffice Memorandum

Date: November 9, 2011

To: William Touzani
Transportation Security Officer (TSO)
George Bush Intercontinental Airport – IAH

From: George Henderson
Acting Deputy Federal Security Director (Acting DFSD)
George Bush Intercontinental Airport - IAH

Subject: Notice of Decision on Proposed Removal

Reference: #11-8191/Central/IAH

This is to notify you that I have decided to remove you from your position of Transportation Security Officer, SV-1802-E, with the Transportation Security Administration (TSA), effective close of business today, November 9, 2011. This action is being taken to promote the efficiency of the service and is based on the following.

On September 21, 2011, you received a written notice of proposed removal from Samuel Lima, Assistant Federal Security Director for Screening (AFSD-S), for the following reasons:

Charge 1: Displaying Offensive Material in the Work Place

Specification: On August 13, 2011, just prior to your shift in-brief, you posted an 8x10 inch poster on the Terminal A-South break room wall featuring a picture collage that you had created of some of your co-workers in your work area. The pictures of your co-workers included conversation bubbles that contained offensive remarks associated with the individual officers' age, race, sexual orientation, and religion. During the in-brief, you pointed out the poster to Lead TSO (LTSO) Tamera Butler, urging her to view it. After the in-brief, LTSO Butler viewed the poster, informed you she found the information you

attributed to her photo was racially offensive, and she removed the poster immediately from the wall.

Charge 2: Failure to Follow Instructions

Specification: As mentioned above, on August 13, 2011, you were instructed by both your supervisor and your manager to put the poster away and not to display it again in the work place after LTSO Butler reported she was offended by the content of the collage to the supervisor. However, on or about August 15, 2011, you brought this poster back to work and shared it with TSO Samuel Dunlap and TSO Gloria Johnson.

That written notice also advised you of your right to make an oral and/or written reply. You request an extension and you were granted until October 4, 2011, to make your response. On October 4th, I received your oral and written responses.

In your responses to Charge 1, you stated you only put the collage on the wall so your coworkers could look at it without touching it and leaving their fingerprints all over the glossy surface, thus, your intent was "not to post it." You also explained that you were allowing each individual in the picture to preview it to see if the photos and captions were to their satisfaction or whether they wanted something changed. I note in your oral reply, you acknowledged that you thought someone might have an issue with your collage. However, you claim no one gave you instructions to remove the poster from the wall, and that you believed LTSO Butler only took it down when she saw that you had not changed her appearance in Photoshop to make her look slimmer. You also describe a personal friendship between you and LTSO Butler, and you claim her caption, "I hate blondes," was not motivated by anything other than information LTSO Butler had previously told you about the hatred that existed between her and STSO Katherine Pennington, after LTSO Butler provided a witness statement in another matter that led to a disciplinary action against STSO Pennington. However, I note that LTSO Butler's statement dated August 17, 2011, indicates that she did not share this information with you, but that you had obtained this information through other coworkers. In your written response, you claim you understand the policy of not posting material that contains offensive remarks associated with age, race, sexual orientation or religion, but argue that your collage does not meet the standard of being offensive.

I find your explanation for posting the collage is illogical and unacceptable. Witness statements indicate that LTSO Butler was clearly upset by the collage and found the poster racially offensive, and this was the reason she asked for the poster to be removed. Furthermore, your argument that you did not find the picture collage to be offensive only confirms your insensitivity to the matter. Thus, I have decided to sustain the first charge and specification.

With regard to Charge 2, in your response, you claim you did not receive any kind of instructions that you were not allowed to show the picture collage after you had initially posted it in the break room. However, you also state that you were *told* not to post anything personal in the common break room after the initial incident on August 13th because "no one could predict what could possibly be offensive and to whom." I find that these instructions were reasonably sufficient and

that you knew, or should have known, further dissemination or allowing others to view the collage in the work place was unacceptable. I also note that you provided no evidence to dispute the fact you showed the picture to TSOs Dunlap and Johnson after the initial break room incident. Thus, based on the evidence and witness statements, I have decided to sustain the second charge and specification.

I have considered all the evidence of record, including your response. I find that the information you provided concerning STSO Pennington's involvement in your response to the proposed removal action is irrelevant to the incidents that occurred on August 13 and 15, 2011. Furthermore, the personal off duty emails you exchanged with STSO Pennington do not aid in defense of your actions. Therefore, I find the evidence supports the charges and specifications as stated in the Notice of Proposed Removal. In determining the appropriateness of the penalty, I considered a number of factors.

First, I considered the nature and seriousness of the charges and their relation to your duties. As a TSO, you are held to high standards of conduct and professionalism. You are required to conduct yourself in a manner that does not adversely reflect on TSA, negatively impact its ability to discharge its mission, cause embarrassment to the agency, or cause the public or TSA to question your reliability, judgment, or trustworthiness. Your actions with respect to displaying the offensive material demonstrates a lack of good judgment. Your failure to follow the instructions or directions of your supervisors and managers is also serious misconduct, which cannot be tolerated.

I considered the effect of this misconduct on your ability to perform at a satisfactory level. As an officer of TSA, the agency and the public must trust that you will perform your duties according to policies and the instructions you receive from management officials. Your failure to comply with directions and instructions from your supervisor or other management official is inexcusable. Moreover, TSA is committed to providing a work environment free from unlawful discrimination and where the contributions of all employees are supported and encouraged without regard to non-merit factors. Your additional failure to support and assist in creating a productive and hospitable model work environment evidences a willful disregard for TSA's values and conduct standards of its officers. Accordingly, my confidence in your ability to perform the duties of your position in a satisfactory manner are diminished.

I also considered your disciplinary history. In March 2011, you served a fourteen (14) day suspension for failure to follow procedures and failure to protect Sensitive Security Information (SSI). Additionally, I note that you were counseled in March 2003 for making inappropriate remarks about another co-worker in the work place. Therefore, I consider your disciplinary history to be an aggravating factor.

Furthermore, I considered the clarity with which you have been warned about the conduct in question. As an employee of TSA you have been fully informed of TSA policies regarding the elimination of discrimination and creating a model work environment. I find that your previous disciplinary action and counseling evidence that you have received notice that conduct of this nature

is considered inappropriate for the work place. In this recent incident, you displayed personal material without seeking guidance or gaining approval from appropriate management officials. Similarly, in the incident which resulted in your suspension, you posted a book you authored containing SSI material without first seeking and gaining authorization from the appropriate management officials. I note further that after you were informed that the picture collage could be perceived offensive by others, you decided to show it to two (2) additional co-workers. Thus, you knew, or should have known, your actions violated TSA policies. I also note that in your suspension action, you were informed that future misconduct may form the basis for disciplinary action up to, and including removal from Federal service. Additionally, your OLC record indicates that you have read the TSA policy on Employee Responsibilities and Conduct in July 2009, June 2010, and recently in June 2011. This policy provides the agency's conduct expectations and also provides that employees' failure to comply with TSA policies may result in disciplinary action up to removal. Therefore, I find you also knew, or should have known, that your recent misconduct could result in disciplinary action including your removal from the Federal service.

I note that prior to the time of this incident, you have maintained satisfactory performance with regard to the technical aspects of your position. I also considered your length of service and that you have been employed with the agency since 2002. I considered these mitigating factors in your favor. However, they are not significant enough to outweigh the seriousness of the charges and aggravating factors discussed above.

Lastly, I considered your potential for rehabilitation and alternative sanctions to deter such conduct in the future. While you claim you apologized to LTSO Butler on the date of the incident, you also continued to show the collage to two (2) other co-workers even after you knew of LTSO Butler's feelings about it. Additionally, during the reply process, you made excuses for your misconduct without accepting responsibility for your actions. Thus, I don't believe your potential for rehabilitation is good, nor do I believe alternative sanctions would be a productive means to deter your participation in such conduct in the future.

Thus, after conducting my review of the facts, and after considering your response, and all the factors discussed above, I find the reasons for the proposed action are supported by the information of record and that your removal is the appropriate penalty and will serve to promote the efficiency of the service.

This is a final decision. You may appeal this decision to TSA's OPR Appellate Board (OAB). If you elect to file such an appeal, you must do so in accordance with TSA MD 1100.77-1, "OPR Appellate Board." Any appeal must be in writing, must set forth facts and arguments outlining why you believe the action is improper, include documentation in support of your appeal, detail the relief you request, and must be received or postmarked no later than thirty (30) calendar days after the effective date of this action. A copy of TSA MD 1100.77-1, containing applicable requirements and procedures, as well as a copy of the Appeal Form, is attached to this decision. The address for filing an appeal is shown on the following page:

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Transportation Security Administration
OPR Appellate Board (TSA-30)
Attention: OAB Coordinator
601 South 12th Street
Arlington, VA 20598-6030

Appeals also may be filed by facsimile at 571-227-1389, or by email to OPR.AB@dhs.gov.

You must return all TSA-issued property to your supervisor, including ID badge(s), equipment, and uniforms. And, according to TSA MD No. 1100.73-2, TSO Dress and Appearance Responsibilities, you must also return all TSA issued uniforms that contain TSA insignia; however, you may keep self-purchased uniform items that contain TSA insignia **only** if you remove all insignia from the clothing and return the insignia to TSA. You will not be allowed access TSA offices at IAH or any other TSA facilities after receipt of this notice. Therefore, contact Human Resources by November 14, 2011, at 281-443-5300 to set up an appointment to return your TSA issued property. All your uniform items and any other government property will need to be return by close of business on November 16,2011.

You are advised that TSA regulations prohibit you from divulging Sensitive Security Information (SSI) even after you are no longer employed by TSA. If you disclose SSI, TSA may seek a civil or criminal penalty or take other enforcement action against you.



George Henderson
Acting DFSO

Attachments: TSA MD 1100.77-1, OPR Appellant Board

cc: Employee Relations