

Public Notice

March 31, 2023

**The KCSO Employees' Merit System Board of Directors will meet
Wednesday, April 12, 2023, at 5:00 p.m. in the Main Assembly Room,
City/County Building, 400 W. Main Street**

AGENDA

**KCSO Employees' Merit System Board of Directors Meeting
April 12, 2023, 5:00 p.m., Main Assembly Room,
City/County Building, 400 W. Main Street**

- I. CALL TO ORDER:**

- II. NEW BUSINESS:**
 - A. Set the meeting agenda
 - B. Approval of minutes of last meeting
 - C. Restructuring of Merit System Office to replace open position
 - D. Recognition of Service for Board Member Jim Wright Jr.
 - E. Lisa Jarrell Grievance Hearing

- III. ADJOURN**

POC: Paula Taylor at (865) 215-4446 or paula.taylor@knoxcounty.org

BEFORE THE KNOX COUNTY MERIT SYSTEM COUNCIL

LISA JARRELL,)
Petitioner,)
v.)
KNOX COUNTY SHERIFF'S OFFICE,)
Respondent,)

**NOTICE OF FILING PREHEARING STATEMENT AND EVIDENTIARY
DOCUMENTS, AND RECORDINGS**

Comes now Lisa Jarrell, pursuant to Merit Rule 9.4.2.(f) provides notice of filing the following Prehearing Statement, Evidentiary Documents, and recordings.
Pre-Hearing Statement

The Knox County Sheriff's Office(KCSO) failed to abide by the letter of the rules as outlined in KCSO Merit System Council Policies and Procedures, Section 9.5 Right of Grievance in multiple instances as outlined below:

The original request to discuss the issues and notification of grievance was sent to my direct supervisor Lysette Aviles (KCSO Human Resources Director and ADA Coordinator) November 2, 2020. Lysette Aviles (KCSO Human Resources Director and ADA Coordinator) never responded. The policy clearly states that the supervisor should attempt to resolve the complaint promptly and fairly as outlined in 9.5.1(b). This was not timely.

After waiting a week, I submitted my grievance to the division head Chief Counsel Mike Ruble in writing on November 9, 2020. I do not know of any investigation that was conducted. Chief Counsel Mike Ruble did not discuss the matter with me to get more details and he failed to follow the procedure outlined in 9.5.1(c). I was not given a response within 7 days. Instead of meeting with me in person, he chose to mail the letter via U.S. mail. While the letter was dated November 16, 2020, it was mailed via US mail on November 17, 2020, eight days after receipt of my correspondence. I received the letter many days after that. Chief Counsel Mike Ruble's response was not timely nor did he meet with me in person to get my signature and date as proof of receipt on the written decision.

MAR 29 2023 RCVD

My response to the Sheriff was delayed, in part because Chief Counsel Mike Ruble's response was not timely. The other contributing factor was [REDACTED]. In December of 2020, the Corrections Officer Training Academy cadets and staff had a [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the Family Medical Leave Act (FMLA), the employer must notify the employee he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. Lysette Aviles (KCSO Human Resources Director and ADA Coordinator) and Chief Counsel Mike Ruble never [REDACTED]. [REDACTED] over a period of weeks, and communicated with Lysette Aviles (KCSO Human Resources Director and ADA Coordinator) regularly. [REDACTED] as required by Federal law, Chief Counsel Mike Ruble mailed me a letter threatening termination because the previous [REDACTED]. He also demanded that the new note cover [REDACTED], even though I had turned in other notes previously. This ultimatum gave me very little time to get an additional note from [REDACTED]. Shortly after that, [REDACTED].

KCSO Merit System Council Policies and Procedures in 9.5.1, a grievance is defined as any perceived wrong, considered as grounds for complaint arising out of a personnel action. The term personnel action is not defined in the document and could include many types of actions by supervisors to their employees including: any administrative act or omission which has a significant adverse impact upon the employee, or a change in the employee's duties or responsibilities inconsistent with the employee's grade and salary.

This grievance has to do with ongoing harassment, retaliation and intimidation due to reasonable requests for [REDACTED] that continues to this day. I believe this violates our General Orders as well as Federal law including, but not limited to General Order 2-003 Workplace Harassment and Sexual Harassment Policy, General Order 2-005 Complaints on Employees, and The Americans with Disabilities Act (ADA).

I have experienced a loss of [REDACTED] annual time and pay due to this. In 2018, when Chief Counsel Mike Ruble changed my scheduled work hours, unilaterally withdrawing an [REDACTED] that had worked well for

over 4 years. I was told my schedule was changing to 8 - 430 and I could come in later, but I would be required to use my [REDACTED] each day. I was required to use my [REDACTED] in the month of December 2018. I believe it was no more than 40 hours. [REDACTED]

early 2022. I ran out of paid time off and went without pay for a significant amount of time. In 2022, when Lysette Aviles (KCSO Human Resources Director and ADA Coordinator) wrote me up for insubordination for following the directive of RDWDF Facility Commander Chief Jimmy Stephens, the write-up included one day off with pay to be determined at a future date. This was the 2nd write up for insubordination for following a command given by a Chief and a Captain. Prior to this, I had never been written up in my entire career for anything.

9.4.2(f) (1) the employee claims that the Sheriff has not complied with the procedures established by the Council,

(2) the employee does not claim that the disciplinary action occurred for political reasons, and

(3) the employee claims that the Sheriff was arbitrary in the interpretation of "cause". The term arbitrary describes a course of action or a decision that is not based on reason or judgment but on personal will or discretion without regard to rules or standards. An arbitrary decision is one made without regard for the facts and circumstances presented. The Sheriff did not take the time to speak with me about this and I do not believe he was aware of all the facts and circumstances. If the Sheriff knew what I have been subjected to since 2018 by Chief Counsel Mike Ruble and Lysette Aviles (KCSO Human Resources Director and ADA Coordinator), I would hope that he would have put a stop to it.

Respectfully submitted this 29th day of March, 2023.


Lisa Jarrell
KCSO Benefits Coordinator

BEFORE THE KNOX COUNTY SHERIFF'S OFFICE EMPLOYEES'
MERIT SYSTEM BOARD OF DIRECTORS

LISA JARRELL,)
)
 Petitioner,)
)
 v.)
)
 KNOX COUNTY SHERIFF'S OFFICE,)
)
 Respondent.)

NOTICE OF FILING PREHEARING STATEMENT
AND EVIDENTIARY DOCUMENTS

Comes now the Knox County Sheriff's Office, by and through the undersigned counsel, and pursuant to Merit System Rule 9.4.2.(f) provides notice of filing the following Prehearing Statement and Evidentiary Documents.

Pre-Hearing Statement

Petitioner's ostensible grievance suffers from two fatal jurisdictional issues which have been repeatedly raised by KCSO but never adjudicated, to wit: (1) the appeal was untimely; and (2) the grievance did not allege a loss in pay. To be clear, these objections have never been considered or adjudicated. The previous Knox County Merit System Council had a custom and policy to hear any grievance filed before it. The previous Council (not this Body) prevented KCSO's attorney from speaking or raising objections prior to ruling in favor of the Petitioner and granting a grievance hearing.

Respectfully, KCSO contends that these fatal jurisdictional issues should be addressed prior to a needless trial. Accordingly, KCSO previously-filed motions to reconsider and motions to dismiss, filed January 26, 2023, are adopted and incorporated as if fully restated herein.

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KCSO respectfully requests this body put to a vote KCSO's objections to this trial prior to wasting everyone's time on a case that is not grievable.

In the previous grievance hearing trial of Westley Keck, while the Parties did dispute the actual merits of the case, Mr. Keck was still entitled to a hearing and trial. Mr. Keck clearly lost salary by virtue of losing his job. While Mr. Keck was ultimately unsuccessful in his grievance, it is important to note that he was entitled to that grievance hearing and trial. The same cannot be said for Petitioner Jarrell.

MEMORANDUM OF LAW AND BASIS FOR DISMISSAL

I. Petitioner's purported grievance was untimely.

Petitioner's initiating grievance documents are attached for the convenience of this Board's review. [Exhibit A]. Petitioner's January 6, 2021¹, appeal to the Sheriff from Chief Ruble's November 16, 2020, response was untimely because the appeal must be made to the Sheriff within seven (7) days. Merit System Rule 9.5.1(d).

In other words, Petitioner waited fifty-one (51) days to file an appeal, and Merit System Rule 9.5.1(d) requires an appeal to be made to the Sheriff within seven (7) days. Accordingly, Petitioner's appeal from Chief Ruble's November 16, 2020, decision was untimely by 44 days. Respectfully, Chief Ruble's November 16, 2020, administrative decision is now final and no longer reviewable by this body, or any court, as it lacks subject matter jurisdiction for failure to timely appeal.

II. Petitioner is not entitled to a grievance because there is no loss in salary.

Petitioner's purported grievance fails to allege any loss of salary or pay to confer jurisdiction on this body pursuant to Merit System Rule 9.5.1(f) (**bold added**).

¹ The letter was misdated as January 6, 2020.

If the individual (must be in the Classified Service) is not satisfied with the decision of the Sheriff, **and the personnel action results in any loss of salary to the employee**, he/she may appeal to the board in writing for a review of the Sheriff's decision within ten (10) days of its receipt. The term "salary" does not include property of the Sheriff's Office assigned to an employee for the purpose of performing his/her duties.

Enclosed are KCSO's payroll records [Exhibit B] reflecting Petitioner's salary, and all changes, since 2017.

<u>Date</u>		<u>Salary</u>
January	2017	\$68,571.58
July	2017	\$70,494.90
January	2018	\$75,041.42
July	2018	\$77,127.71
November	2020	\$79,244.36
July	2021	\$81,437.98
July	2022	\$85,232.42
September	2022	\$86,945.56
Current		\$86,945.56

Petitioner has not lost any salary - which is a condition precedent to filing a grievance pursuant to Merit System Rule 9.5.1(f). In the past six (6) years, the Sheriff has only increased Petitioner's salary. Because Petitioner's complaint is not a grievable matter (no loss of salary), it should be summarily dismissed.

III. The Merits.

If forced to a trial, KCSO respectfully asserts that Petitioner Jarrell's grievance is moot, because she raises vague complaints regarding the [REDACTED].
[REDACTED] To be sure, on or about September 22, 2020, Petitioner filed a dual charge against KCSO [REDACTED]
[REDACTED] on the exact same subject matter. [Exhibit C]. The [REDACTED] did not have authority to review the [REDACTED] and the [REDACTED] accepted jurisdiction and investigated Petitioner's charge. Ten (10) days after filing the [REDACTED] Petitioner filed her

grievance with her direct supervisor on the exact same subject matter. Simultaneously, Petitioner also complained of the same subject matter to Internal Affairs in KCSO and met with Chief Wes Norris on September 9, 2020, September 25, 2022, September 28, 2020, and October 6, 2020. Ultimately, Petitioner Jarrell informed Chief Norris that she filed a charge against the KCSO with [REDACTED] Chief Norris rightfully halted any internal investigation to prevent a dual investigation that the [REDACTED] was already conducting.

The importance of this is that Petitioner has litigated on multiple fronts and had multiple bodies investigate the exact same matters. KCSO filed a response to the [REDACTED] charge on April 30, 2021. [Exhibit D]. KCSO's response is attached as an exhibit but it is also reproduced below, verbatim.

The Knox County Sheriff's Office denies that it violated any federal or state law.

The Knox County Sheriff's Office (KCSO) is part of Knox County Government. Sheriff Spangler was elected in August of 2018 and took office on September 1, 2018, replacing the previous Sheriff Jones. When Sheriff Spangler began his four-year term, he put in place his administration team which he deemed fit to achieve his goals of having an agency that was professional and ethical.

When Sheriff Spangler took office, then-Personnel Director, Rodney Bivens, retired. Chief William Purvis became interim Director while a search was conducted for a new Personnel/Human Resources Director. Chief Purvis reported to Chief Michael Ruble who oversees the Human Resources department. Chief Ruble has been with the Knox County Sheriff's Office for over 30 years. His experience traverses not only the law but different aspects of human resources core functions. Accordingly, Ms. Jarrell fell into this chain of command when Sheriff Spangler took office.

Ms. Jarrell makes complaints of her then-supervisor's supervisor, Chief Ruble. As noted, Chief Ruble, who is a licensed attorney, has been employed by KCSO for over 30 years and serves as Chief Legal Counsel to the Sheriff. Ms. Jarrell notes in her charge that once she complained to the Sheriff regarding Chief Ruble, the

Sheriff told her to “hang on, [because] he was hiring a new HR director and things would be better.” Ms. Jarrell claims she was being harassed by Chief Ruble but does not explain what the harassment entailed.

What Ms. Jarrell did not share is that KCSO needed Ms. Jarrell to substantiate her claim for needing a [REDACTED]. When Ms. Jarrell raised the issue of having [REDACTED], KCSO contacted Deputy Law Director Evan Hauser for legal advice on navigating an [REDACTED] request in the proper way. Ms. Jarrell requested an [REDACTED] of working when she was able to – essentially to come and go when she pleased. KCSO responded by proposing Ms. Jarrell work a set amount of hours but was flexible with the start time. Ms. Jarrell then reported that she had [REDACTED] and needed a flexible working schedule for those reasons. As noted elsewhere in this response, Ms. Jarrell has her own office with a door.

In response to the [REDACTED], KCSO requested that Ms. Jarrell provide a doctor’s note and again offered a flexible start time; but KCSO stressed the importance that Ms. Jarrell needed to have set hours so employees could call her with questions regarding benefits. Once Ms. Jarrell provided a doctor’s note, the reasonable accommodation was offered to begin employment at 10:00 a.m. instead of 8:00 a.m. Importantly, Ms. Jarrell mentions a past “*existing flexible schedule [REDACTED] that had worked well for four years;*” however, she did not and has not provided the required documentation to substantiate that accommodation from four years ago. There is nothing in her personnel or medical files. If she had a conversation or verbal agreement with the previous Personnel Director, or some other employee, it was never put in writing. As noted, in 2018, Ms. Jarrell presented a doctor’s note requesting an accommodation with a delayed start time of 10:00 a.m. That request was granted. (See Attachment #1).

Human Resources Director Lysette Avilés was hired on April 15, 2019. She has over 25 years of experience in administration, communications, and logistics with the last 14 years of experience in Human Resources for Scripps Networks Interactive, parent company for HGTV, Food Network, DIV, Cooking Channel and Travel Channel. Now, Ms. Jarrell is lodging new complaints against her new supervisor, Director Avilés.

To be clear, KCSO denies Ms. Jarrell's claims of harassment. When Director Avilés came to the Knox County Sheriff's Office, she spent the first few months observing, learning, and understanding how KCSO's HR department functioned. Once Director Avilés had a grasp of the inner workings of her unit, she conducted a departmental assessment to ensure her employees' skills, competencies, and current duties all aligned. Director Avilés held one-on-one meetings, regular staff meetings, and has an open-door policy making her accessible to her staff. Director Avilés also created KCSO's HR Department Guiding Principles for her unit to abide by, as it captured her vision for the new HR department. (See Attachment #2).

Director Avilés started developing and reshaping the HR team with the objective of making it a professional and efficient unit that would provide excellent human resource services to all the employees of the Knox County Sheriff's Office. Those services or functions include: Recruiting/Hiring/Onboarding; Payroll; Benefits; Internships; Employee Relations and Employee Engagement. In order to attain that goal, the duties and responsibilities of the entire HR staff were reviewed. After the review was completed, duties and responsibilities were either kept the same, changed, tweaked, redistributed, or eliminated based upon the effectiveness of the specific function.

In the past, Ms. Jarrell apparently worked intermittently citing a vague agreement. Regardless of past sheriff administrations or what Ms. Jarrell believes she had an agreement to do, KCSO requires full time work for full time pay. It was made clear to Ms. Jarrell that if she was being paid for 8 hours of work, she must work 8 hours even with the accommodation of permitting her to come to work at 10:00 a.m. Now, in response to this reasonable request, Ms. Jarrell claims she had "*Increased scrutiny of my work times.*" Director Avilés monitors all of her staff's work hours in order to gauge productivity vs. timeliness of tasks completed. As a governmental agency, the Knox County Sheriff's Office has the fiscal responsibility to ensure that all employees' work hours (in HR as well as all other departments) are accounted for.

Ms. Jarrell also claims "*Duties changed substantially.*" Once Director Avilés finished her departmental assessment, there was a reorganization of HR duties within the group in order to streamline responsibilities, create efficiencies and eliminate duplication of work. To some extent, the entire HR department was altered when it came under new directorship.

Ms. Jarrell also claims "*Access to information on employee benefits and HR information was taken away.*" During a one-on-one meeting in 2019, Ms. Jarrell shared with Director Avilés that she communicated extensively with employees and their family members providing counseling and advising them on issues including, but not limited to, retirement and benefits as it related to their personal health, illnesses and/or death. Director Avilés was alarmed when hearing this and informed Ms. Jarrell this was a tremendous liability, which Ms. Jarrell dismissed.

Shortly thereafter, Director Avilés had a meeting with then-Executive Director of Retirement for Knox County, Kimberly Bennett. Ms. Bennett informed Director Avilés that she had requested from the former Personnel Director (and once he was gone, from Chief Ruble) not to permit Ms. Jarrell to be involved in dispensing any type of guidance, answer any questions or provide any information regarding Retirement, as she was not a subject matter expert, and it could have a multitude of legal consequences. As shown below, there is a documented past of Ms. Jarrell advising family members incorrectly. This is tragic circumstance when: (1) the employee's family does not need bad information when dealing with the death of a loved one, and more importantly (2) it is not Ms. Jarrell's job to do so.

Director Avilés shared this information with Ms. Jarrell and directed her to immediately stop giving Retirement advice as well as providing guidance on personal health, illness or death issues. Ms. Jarrell did not agree with this directive, and it is for this reason that her access to HR-specific software was restricted. Recently, Director Avilés received communication from a new employee, Amy Margolis, that Ms. Jarrell had advised her on a retirement issue, even though she has been instructed not to do so. The information Ms. Jarrell provided was erroneous. Ms. Margolis' mistake (Jarrell's mistake) was discovered and corrected by the Retirement department personnel. (See Attachment #3).

Ms. Jarrell also claims "*Not allowed to teach classes on benefits.*" Prior to Director Avilés' arrival, Ms. Jarrell would make a presentation during In-Service Training for our Corrections and Law Enforcement Officers on Health Insurance/Benefits tips. These presentations could take anywhere between 2-3 hours, including travel time. This presentation took place weekly, for 3-4 months at a time, while the Training was going on. After reviewing her presentation, Director Avilés decided that Ms. Jarrell's time would be better spent concentrating on her other duties. These tips had to do with Open Enrollment which takes place in the Fall and is the

only time an employee can make changes to their health insurance coverage unless they qualify for a life changing event. (See Attachment #4). In other words, it was a waste of time and resources to be providing these tips throughout the year when they were helpful only during a small window of time.

Ms. Jarrell also claims, "*Not allowed to send out communications to our employees about benefits.*" Director Avilés took over the responsibility of sending mass communications to all KCSO employees regarding anything that falls under the Human Resources umbrella, including Benefits.

Ms. Jarrell also claims "*Another employees talks to new employees about benefits.*" Director Avilés believes in cross-training all her personnel in the main HR functions such as Payroll, Benefits and Recruiting in order to encourage agility, foster teamwork and avoid working in silos. Director Avilés shifted New Hire Orientation from the Roger D. Wilson Detention Facility in East Knoxville to the City/County Building (CCB) in Downtown Knoxville to streamline the process and increase efficiency amongst all departments participating in New Hire Orientation. Not only is the HR office located at the City/County Building, so is the IT Department (they complete employee ID's and key fob access), Forensics (for fingerprinting) and PBA (for parking cards). Now that New Hire Orientation is held at CCB, they utilize available on-site team members that are housed at CCB to conduct Orientation.

Ms. Jarrell also claims "*Work location has changed.*" After evaluating Ms. Jarrell's workload, Director Avilés determined that Ms. Jarrell had the bandwidth to help another department that was in desperate need of additional help. Ms. Jarrell transferred locations in August 2019 from CCB to the Roger D. Wilson Detention Facility to help the Corrections Training Department with administrative tasks.

Ms. Jarrell also claims "*Son's work location was changed and he was subsequently fired.*" Ms. Jarrell's son was already working as a part-time Human Resources File Clerk when HR Director Avilés took over. Given that having an immediate family member (Mother/Son) in the same Chain Of Command has its own conflicts and foreseeable personnel problems, Director Avilés asked Mr. Jarrell if he would like to work in the Medical Department at the Roger D. Wilson Detention Facility. Mr. Jarrell agreed and was excited for the new opportunity. He started his new assignment in June, 2019. Mr. Jarrell was to continue to work his part-time schedule of 18 hours a week. Mr. Jarrell began working less and less hours,

culminating with working only 1-2 hours a week. Since Mr. Jarrell was not fulfilling his hours or completing his job responsibilities, he was terminated in March 2020. (See Attachment #5).

Ms. Jarrell also claims *"I am treated differently than other employees."* Director Avilés treats all her employees fairly across the board. She expects her employees to be professional, respectful, helpful, and accountable for their actions. Director Avilés has gone out of her way to be inclusive, especially since Ms. Jarrell is in another location. On Ms. Jarrell's first day at her new location, on August 20, 2019, Director Avilés went over to welcome her and to ensure Ms. Jarrell had everything she needed in her new office. Director Avilés even brought her a present - a coffee mug filled with miniature chocolates. In addition, at Christmas time, Director Avilés gave her entire staff, including Ms. Jarrell, Christmas gifts during the HR Holiday Celebration gathering in December 2019. No reasonable person could perceive Director Avilés' conduct towards Ms. Jarrell as discriminatory or retaliatory for a [REDACTED]

Whenever Ms. Jarrell has asked to leave early (for doctor's appointments or social engagements), take vacation time (pre-arranged or last minute), or sick time, ALL her time off requests have been granted by Director Avilés. (See Attachment #6).

During the departmental assessment, Director Avilés learned that the Knox County Sheriff's Office falls under the Knox County Government. Most of the benefits-related functions are administered by the Knox County Benefits department. After realizing some of these duties were being unnecessarily duplicated, Director Avilés streamlined some of those responsibilities, and Ms. Jarrell's workload was altered to prevent further redundancies.

This was a great opportunity for Human Resources to help a division they work closely with, the Corrections Training Unit, by assigning Ms. Jarrell to assist them. Ms. Jarrell transferred locations on August 20, 2019. She currently helps the Corrections Training unit with different administrative tasks. Director Avilés holds weekly update calls with Ms. Jarrell to discuss what projects and/or tasks she is working on (related to both Benefits and Training) and to ensure the workload is manageable. (See Attachment #7).

Director Avilés holds everyone to the same standard when it comes to professionalism and attention to detail. Ms. Jarrell refers to Director Avilés as being *"highly critical if I make a mistake, such as a typo."* While it's not possible to understand what this vague comment is referring to, one example that comes to Ms. Avilés' mind is that in mid-August, 2020, Director Avilés requested a copy of a keepsake graduation program Ms. Jarrell creates for each graduating Corrections Officers Training Academy (COTA) class. Ms. Jarrell emailed her a copy of the program which contained several errors (spelling, grammar, etc.). Upon review, Director Avilés asked Ms. Jarrell to fix the mistakes and to double check her work in the future to ensure accuracy. (See Attachment #8).

Ms. Jarrell mentions that Director Avilés *"assigned more tasks on top of the duties of the two positions."* During the weekly update call on September 4, 2020, Director Avilés asked Ms. Jarrell to create two additional folders to the ones she already makes for the Corrections new hires. This task consists of taking a file folder and placing a label on it, with the name of the new hire. These additional folders were to be given to another administrative assistant at the Detention Facility who is experiencing a high volume of work at this time. Ms. Jarrell told Director Avilés that she was very busy to do that specific task but never mentioned any concerns about her workload. This task is an occasional task only to be done when KCSO has new hires in Corrections.

Ms. Jarrell speaks about *"a write-up she received for insubordination"* because of her outgoing voice mail message on her office phone. On Tuesday, October 29, 2019, Director Avilés called Ms. Jarrell's office number, and it went to her voice mail. Although her message instructed callers to leave a voice mail, it also said if the call/message was after 4:30 p.m., their call will be returned the next business day. Given that Ms. Jarrell's work hours were accommodated to 10:00 a.m. to 6:00 p.m., Monday through Friday, Director Avilés was surprised that the voice mail said differently. On Wednesday, October 30, 2019, Director Avilés spoke to Ms. Jarrell about it and Ms. Jarrell informed her that she had been given a directive by her past supervisors to change her voice mail greeting prior to Director Avilés' hiring due to an incident that happened earlier in the year. (See Attachment #9).

Director Avilés explained to her that once she (Director Avilés) came on board to the Knox County Sheriff's Office on April 15, 2019 as her supervisor, any directives given previously by any other individuals, especially employees who

no longer worked at KCSO, were null and void; further, that particular Chain of Command ceased to exist as of April 15, 2019, when Director Avilés was hired. Ms. Jarrell was then provided a Questionnaire Memo to give her an opportunity to explain her actions. Ms. Jarrell had been advised of her scheduled hours on June 4, 2019 and reminded again when she transferred locations on August 20, 2019. Since Ms. Jarrell's answers failed to satisfactorily explain her actions, a Written Reprimand (or Write-Up) was issued for violating two General Orders: 2-001 Sections 1.04 Obedience to Orders and 1.07 Insubordination. (See Attachment #10).

Ms. Jarrell claims *"this was the first time I've ever been written up;"* however, it is impossible to know if Ms. Jarrell has or has not ever been written up without reaching out to her previous employers. She mentions that *"there was no verbal or written warning as our policies describe."* The Knox County Sheriff's Office Employee Manual, Chapter 6, Employee Discipline, describes the different types of disciplinary actions. There is no such thing as a written warning. If an action taken by an employee is deemed in blatant disregard of supervisory directives, a written reprimand can supersede an oral one. (See Attachment #11).

Ms. Jarrell speaks about *"an issue on 3/27/20 weekly check in call with Director Avilés"* regarding working from home during the pandemic. Law enforcement is considered essential personnel in a state of emergency, like the Covid-19 pandemic. It is imperative that they follow local, state, and federal protocols to ensure the well-being of the Knox County Sheriff's Office employees as well as the safety of the Knox County citizens. Guidelines and preventive measures were immediately put into action. Some non-essential personnel were granted permission to work from home, depending on their job responsibilities and other factors.

Ms. Jarrell claims that Director Avilés denied a request for Ms. Jarrell to work from home during the pandemic. Ms. Jarrell provided a written request along [REDACTED] on Wednesday, April 8, 2020. Director Avilés asked Ms. Jarrell for clarification on some of the projects Ms. Jarrell referred to in her correspondence, as she had not previously mentioned anything about such projects in their weekly update meetings. Ms. Jarrell emailed back a clarification in on Thursday, April 9, 2020. Her request was granted on Monday, April 13, 2020. (See Attachment #12).

It is noteworthy that Ms. Jarrell was asking to work from home due to her heightened pandemic concerns; however, she attended a COTA

graduation/gathering on April 10, 2020, and she went on vacation with friends to Isle of Palms, South Carolina the week of June 22, 2020.

Director Avilés continued holding weekly update meetings while Ms. Jarrell worked from home. Director Avilés had forwarded a Daily Work Schedule template so Ms. Jarrell could track her tasks easily. Just like an Outlook calendar, the planner is designed in 30 minutes increments. The user fills out the appropriate time spots. (See Attachment #15).

Ms. Jarrell works in the administration wing of the Roger D. Wilson Detention Facility. She has an individual office and is able to close the door and not have in-person interaction if she chooses, in order to avoid contact with others. Additionally, she has no interaction with the inmate population. Given that by the end of April 2020, none of the Sheriff's Office different locations had reported any Covid-19 cases, Sheriff Spangler gave the directive to recall all Sheriff's Office personnel working from home and to report back to duty as of May 1, 2020. His directive also stated that anyone that did not want to return to work could use sick or vacation time until they were ready to come back. Since then, the employees that have been allowed to work from home are those in quarantine due to direct or indirect exposure to the Covid-19 virus.

Ms. Jarrell also claims that *"we had over 100 employees working from home"* at the time she asked for her request (April 8, 2020). It is difficult to know exactly how many employees were working from home on April 8, 2020. The Sheriff's Office created a payroll code to track absences related to Covid-19; however, there is not a code for working from home since the individuals are actually working their normal schedules, just from a different location. In speaking with leadership throughout the Sheriff's Office, that claim is simply not supported. It would be interesting to know where Ms. Jarrell received her information.

Ms. Jarrell's final claim that *"the people at the highest levels of our administration who are supposed to make sure we are following the law are blatantly not following the law"* is disturbing, incendiary, and incongruent with the integrity and professionalism of the Knox County Sheriff's Office.

In closing, employees must work and are required to perform the essential functions of the job. There is simply nothing actionable about Ms. Jarrell's complaints.

After almost a full year of investigating, on August 16, 2021, [REDACTED] dismissed Petitioner Jarrell's charge and complaint against KCSO. [Exhibit E]. Under the law, Petitioner had 90 days to file an appeal of that dismissal to a court but did not do so. That dismissal is final. This is critically important in this case because: an investigation has already occurred on this matter, it was dismissed, and it was not appealed. Stated another way, KCSO should not be burdened to serially defend itself on the same matters after it prevails.

Respectfully, [REDACTED], now Petitioner is looking to relitigate the same issues. This is not permitted under the law. Mootness and estoppel principles² prevent litigants from raising matters that have already been adjudicated.

IV. Every decision made KCSO has made was for a legitimate business purpose.

Every decision KCSO has made was for a legitimate business purpose. As a governmental agency, KCSO has a fiscal responsibility to the taxpayers of Knox County to ensure that all employees' work hours are accounted for. If Petitioner is being paid for 8 hours of work, she must work 8 hours even with accommodations in place under the ADA.

V. Petitioner is failing to follow General Orders.

On February 1, 2023, Petitioner Jarrell's supervisor, Amanda Kitts, responded to a list of questions Ms. Jarrell asked her in which Petitioner had inadvertently disclosed that she was not following a General Order from the Sheriff. In the email, Petitioner Jarrell stated "I have [REDACTED] but I need to know there will be a meeting

² Res Judicata and Collateral Estoppel.

to take it in time.” Realizing that Petitioner Jarrell had never [REDACTED] referring to, Amanda Kitts responded and stated

Of course, your preference will be in my mind, but there will certainly be circumstances of unexpected meetings and phone calls. [REDACTED]

[REDACTED]. Have you provided the information regarding the Chief Counsel (Per General Order 2-002)?

[Exhibit F]. General Order 2-002 is attached. [Exhibit G]. Instead of complying with the General Order as requested, Petitioner Jarrell reached out to Carly Pearson, Knox County ADA Coordinator alleging that the provision of the General Order [REDACTED]

[REDACTED] Ms. Pearson responded by stating that she would inquire of the Knox County Law Department for a legal opinion on the matter. [Exhibit H]. Ms. Pearson did ask the Law Department. [Exhibit I]. The matter was referred to Deputy Law Director Jessica Johnson, and on March 10, 2023, Ms. Johnson provided a legal memorandum to Ms. Pearson opining that the General Order did not violate the ADA. [Exhibit J]. Ms. Pearson emailed Ms. Jarrell communicating to her that the General Order did not violate the ADA and that she should comply with the General Order. Instead of complying with the General Order, Petitioner Jarrell responded with more accusations and Ms. Pearson referred her back to KCSO. [Exhibit K].

VI. KCSO requested and opted for Knox County, Tennessee’s ADA Coordinator to conduct Petitioner Jarrell’s interactive process under the ADA.

KCSO sought Knox County’s ADA coordinator to get involved with Petitioner Jarrell because Petitioner has repeatedly made accusations against her supervisors. There have been multiple meetings and interactive processes between KCSO, Petitioner Jarrell, and Carly Pearson, Knox County ADA Coordinator. Those meetings and accommodations are attached to show this body the good faith effort KCSO has made [REDACTED] Petitioner Jarrell. [Exhibit L].

Conclusion

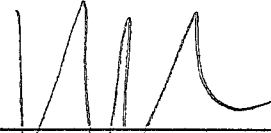
As noted in previous grievance hearings, this Body's authority is limited to overturn the Sheriff and reinstate the employee in only three (3) circumstances: (1) the Sheriff did not comply with the procedures established by this Body; (2) the dismissal occurred for political reasons; or (3) the Sheriff acted arbitrarily. In all other circumstances, this Body has no authority to review the Sheriff's personnel decisions.

Those three circumstances are the *only* authority this Body has to overturn the decision of a Sheriff. In other words, it is not the role of this Body to substitute its judgment for the Sheriff's judgment; but rather, this Body is confined to those three bases to adjudicate an appeal of the Petitioner. KCSO knows of no allegations of (1) procedural errors, (2) political reasons, or (3) arbitrariness. Indeed, the Sheriff has taken no adverse employment action against Petitioner whatsoever. Petitioner apparently did not like her prior manager, but that is not grievable under the rules. A loss of salary (an adverse employment action by the Sheriff) is a condition precedent to filing an appeal to this Body.

If the individual (must be in the Classified Service) is not satisfied with the decision of the Sheriff, **and the personnel action results in any loss of salary to the employee**, he/she may appeal to the board in writing for a review of the Sheriff's decision within ten (10) days of its receipt. The term "salary" does not include property of the Sheriff's Office assigned to an employee for the purpose of performing his/her duties.

Merit System Rule 9.5.1(f) (**bold added**). In addition to all of the foregoing, because Petitioner did not lose salary and did not timely appeal her grievance, it must be dismissed.

Respectfully submitted this the 29th day of March, 2023.



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CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing has been forwarded to the following by depositing same in the United States Mail, postage prepaid or hand delivery:

Sheriff Tom Spangler
400 Main Street, Suite L-165
Knoxville, TN 37902

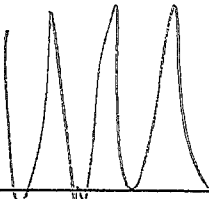
Chief Mike Ruble
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Paula Taylor
Merit System Council
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Myers Morton, Esq.
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400 Main Street, Suite 612
Knoxville, TN 37902

Lisa Jarrell


This the 29th day of March, 2023.



HOUSTON S. HAVASY