

No. 1-16-2377

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ROY SALAS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	No. 15 CH 16060
THOMAS J. DART, in his official capacity as Cook)	
County Sheriff and THE COOK COUNTY SHERIFF'S)	
MERIT BOARD,)	Honorable
)	Rodolfo Garcia,
Defendants-Appellees.)	Judge Presiding.

JUSTICE MIKVA delivered the judgment of the court.
Presiding Justice Pierce and Justice Harris concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm the decision of the Cook County Sheriff's Merit Board to suspend a correctional officer from duty for 45 days, where the factual findings of the administrative agency were not against the manifest weight of the evidence and sufficient cause existed for the suspension.

¶ 2 After an administrative hearing, the Cook County Sheriff's Merit Board (Merit Board) issued a decision suspending Roy Salas from his position as a correctional officer with the Cook County Department of Corrections (CCDOC), Division XI for forty-five days. The Merit Board made factual findings after hearing testimony and reviewing video evidence that Officer Salas

submitted a false incident report regarding the use of force by his supervising officer, Lieutenant Robert Dartt, against CCDOC inmate Armond Freeman. The Merit Board concluded that, by submitting the false incident report and failing to correct the record during a later investigation, Officer Salas violated Cook County Sheriff's Orders (Sheriff's Orders), CCDOC General Orders (General Orders), and Article X of the Rules and Regulations of the Merit Board (Rules). The circuit court, reviewing Officer Salas's complaint for administrative review, affirmed the Merit Board's decision. On appeal, Officer Salas argues that the Merit Board's findings of fact are against the manifest weight of the evidence and that there was insufficient cause for his suspension. We reject these arguments and confirm the decision of the Merit Board and affirm the decision of the circuit court.

¶ 3

BACKGROUND

¶ 4 On February 26, 2014, the Cook County Sheriff's Office of Professional Review (OPR) Investigator Rochelle Parker conducted an administrative interview of Officer Salas regarding his incident report of the altercation between Lt. Dartt and Mr. Freeman. Officer Salas's statements to Ms. Parker regarding his incident report ultimately led the Cook County Sheriff (Sheriff) to file a complaint before the Merit Board on July 9, 2014, seeking his 45-day suspension for false reporting. The Merit Board conducted a hearing on the Sheriff's complaint on January 8, 2015, and issued its decision to suspend Officer Salas from duty for 45 days on October 15, 2015, effective as of July 8, 2014.

¶ 5

Joint Exhibits and Witness Testimony

¶ 6 The parties, before examining witnesses at the hearing, stipulated to the introduction of several joint exhibits into evidence: the Sheriff's complaint; a video disk showing the camera footage of the altercation on October 31, 2011 (not included in the record on appeal); the incident report submitted by Officer Salas; Officer Salas's written statement to Ms. Parker in the

OPR interview; copies of the seven operative Sheriff's Orders, General Orders, and Merit Board Rules; and the internal CCDOC complaint of Mr. Freeman, dated November 7, 2011, detailing his account of Lt. Dartt's actions during the altercation.

¶ 7 In the incident report, entered as Joint Exh. 3, Officer Salas gave his account of the October 31, 2011, altercation in the "Statement of Facts" section:

"On the above date and time [October 31, 2011]. While Lt. Dartt was conducting rounds in Div XI (holding). Detainee Freeman, Armond * * *, which was in bullpen #176 to be transported to Cermak for a psych eval, [r]equested to speak to Lt. Dartt. While Lt. Dartt was speaking to detainee Freeman, * * * he became verbally abusive yelling at Lt. Dartt, 'F*** You B****, I will kick you're A** B****' and then charged [at] Lt. Dartt with closed fists, at which time Lt. Dartt took detainee down with no further incident. Detainee was escorted to Div XI dispensary for a medical evaluation. [U]pon further evaluation detainee was sent to Cermak."

¶ 8 The sole witness called by the Sheriff at the Merit Board hearing was Ms. Parker, Investigator with the OPR. Ms. Parker testified that the reason for the delay between Mr. Freeman's complaint, dated November 7, 2011, and the beginning of her investigation in 2014 was that the case had been referred to the Cook County State's Attorney for potential criminal charges. She conducted an interview of Officer Salas on February 26, 2014. Ms. Parker testified that Officer Salas had union representation with him at the interview. Although Officer Salas initially could not recall the incident between Lt. Dartt and Mr. Freeman, Ms. Parker refreshed his recollection with his incident report and the video recording of the incident. According to Ms. Parker, Officer Salas maintained at the interview that his incident report was accurate. She

testified that she typed the following statement, entered as Joint Exh. 4, summarizing the interview, which she and Officer Salas both signed:

“CO Salas said he was assigned to Div. XI on October 31, 2011. CO Salas said he authored the Cook County Incident Report shown to him with Tracking No. 11-10-11-0738 but he did not recall much about the incident. CO Salas was allowed to view the recorded incident. After viewing the video, CO Salas identified the CO’s in the video as CO [Kalind] Walker, CO Patel, CO [Ramon] Diaz, himself and Lt. Dartt.

CO Salas said his report is a true and accurate statement of what he saw. CO Salas said, after viewing the video, he did not see the initial contact made by Lt. Dartt, his statement reflects what he saw when he entered the bullpen. CO Salas said the detainee was not combative toward him. CO Salas further stated that combative detainees are usually cuffed after control and security has been maintained. CO Salas stated he doesn’t know why the detainee wasn’t cuffed after the incident. He left that up to the superior officer, Lt. Dartt.”

¶ 9 Ms. Parker further testified that the video footage of the incident, which bore an initial time stamp of 2011/10/31, 17:37:27, focused on the back corner of a holding cell, with Lt. Dartt at the bottom of the screen near the cell entrance and Mr. Freeman toward the top of the screen, farther back in the cell. Ms. Parker gave an account of what the next two minutes of video showed. She stated that when Lt. Dartt opened the cell door Mr. Freeman did not charge Lt. Dartt with closed fists, and that Lt. Dartt’s “take down” of Mr. Freeman did not “end the incident,” as Officer Salas indicated in the incident report. She also testified that correctional officers Salas, Patel, Diaz, Walker, and Lt. Dartt were present in the video of the altercation, and that the video showed Lt. Dartt “in a kicking posture [with] his foot on [Mr. Freeman’s] neck.”

Ms. Parker concluded that Officer Salas's incident report did not accurately reflect what was on the video recording.

¶ 10 Ms. Parker then testified to her familiarity with several Sheriff's Orders, General Orders, and Rules of the Merit Board governing a correctional officer's response to resistance and the use of force, reporting requirements for the use of force, ethical guidelines and rules of conduct, and procedures for internal investigations. Ms. Parker testified that her investigation revealed to her that Officer Salas had "falsified the documentation" of his incident report, in violation of these rules and orders.

¶ 11 On cross-examination, Ms. Parker testified that she did not ask Officer Salas if any portion of his narrative in the incident report had been relayed to him by Lt. Dartt. She stated that she did not make any findings with respect to Officers Walker and Diaz, as they did not complete incident reports regarding the October 31, 2011 altercation. Later, on recross-examination, she testified that she had made findings against Mr. Patel, that he had falsified reports concerning the altercation. After Ms. Parker concluded her testimony, the Sheriff rested his case-in-chief.

¶ 12 Officer Salas testified on his own behalf and called as additional witnesses his fellow correctional officers Diaz and Walker. Officer Salas testified that, as of the date of the hearing, he had worked his entire 17-year career as a correctional officer with the Cook County Sheriff's Department at Division XI, which is a medium-level correctional facility. He recalled working on October 31, 2011, on the 3:00 p.m. to 11:00 p.m. shift. He testified that, around 5:00 p.m., there was a disturbance in a holding cell that was approximately six to eight feet away from the holding office where he was. Officer Salas testified that he heard an inmate cursing and he, along with correctional officers Patel, Walker, and Diaz, approached the cell where the inmate was cursing. He testified that the other correctional officers were standing in front of him as he approached the cell with Lt. Dartt and Mr. Freeman in it. He stated he did not have a clear view

of Lt. Dartt from behind his colleagues, while he was standing in the doorway of the cell. Officer Salas testified that he did not see Lt. Dartt strike or touch Mr. Freeman before Lt. Dartt “took down” Mr. Freeman by bringing him to the ground. He testified that he could see Lt. Dartt’s upper body between the other correctional officers, and he was standing roughly four feet away from Lt. Dartt during the “take down.” Officer Salas testified that he did not assist with the take down, nor did he put his hands on Mr. Freeman. He attested that, after Lt. Dartt brought Mr. Freeman to the ground, he (Officer Salas) went back to the holding office to perform his duties.

¶ 13 Officer Salas stated that, roughly 10-15 minutes later, Lt. Dartt asked him to complete an incident report. He testified that the portions of the incident report relayed to him by Lt. Dartt and not based on his own observation included references to Mr. Freeman’s presence in the bullpen for an impending transfer, Mr. Freeman’s cursing at Lt. Dartt, and the narrative where Mr. Freeman “charged at Lt. Dartt with closed fists.” Officer Salas testified that he wrote “...at which time Lt. Dartt took detainee down with no further incident,” based on his own visual recollection. The remaining sentences in the “Statement of Facts” section of the incident report, about Mr. Freeman being sent to the dispensary and to Cermak, were not based on Officer Salas’s observations, but rather on the fact that this was “protocol.” He testified that after submitting the incident report to his superiors, he did not see it until Ms. Parker’s interview in 2014. He further stated that it is “very common” for detainees at Division XI to become verbally abusive with correctional officers and likewise common for officers to take down and secure detainees.

¶ 14 Officer Salas testified that he had no prior incidents or reprimands with the Sheriff’s Office, and that he was “stressed out” while giving his statement to the OPR, partly due to the aggressive questioning of Ms. Parker. Officer Salas stated that, “when she showed the videotape, I’m nowhere to be seen on the videotape when the, according to her, the strike took place.” He

also disputed Ms. Parker's conclusion that Lt. Dartt "stomped" Mr. Freeman in the video footage. Officer Salas testified that he did not see Lt. Dartt kick or stomp Mr. Freeman, either in-person on the date of the incident or later through the video recording. He testified that he had completed "50 or more" incident reports in his career, and had never required remedial training regarding their preparation or drawn a reprimand for incompleteness or inaccuracy. Officer Salas confirmed that he was familiar with the General Order requirement that "CCDOC staff shall completely and accurately document any incident or situation that he or she observed or that is reported to him/her."

¶ 15 On cross-examination, counsel for the Sheriff carefully reviewed the two minutes of videotape with Officer Salas, questioning him on his view of the holding cell and the position of the parties—both as he personally recalled them and as he could see from the footage. Officer Salas acknowledged that: he was in the video footage; the footage showed Lt. Dartt striking Mr. Freeman, but he (Officer Salas) could not have seen it; Mr. Freeman did not appear to touch Lt. Dartt before the officer wrestled Mr. Freeman to the ground; Officer Salas was the first correctional officer to leave the holding cell; and at no point did any officer secure Mr. Freeman in handcuffs, as is the policy whenever an inmate is brought to the ground by a correctional officer. Finally, he acknowledged, in response to counsel's questions: "Q. [The incident report is] not an accurate statement of what you saw * * * the majority of the report is information that was given to you by somebody else, right? A. Correct, which I was never asked in OPR. Q. But when you reviewed this [with the OPR] you were given a chance to review the statement, correct? A. Correct."

¶ 16 Ramon Diaz testified that he had been employed by CCDOC as a correctional officer for 13 years, 12 of which were spent at Division XI. He testified that he did not recall the incident on October 31, 2011, but that he gave a statement to the OPR in 2014.

¶ 17 Kalind Walker testified that he could only recall the events of October 31, 2011, after being interviewed by the OPR in 2014. He testified that no one asked him to complete any incident report or other paperwork about the events of that day. Mr. Walker testified that he did not observe Lt. Dartt kick or stomp Mr. Freeman.

¶ 18 Merit Board Findings, Agency Orders, and Regulations,

¶ 19 The Merit Board made the following factual findings in its decision of October 15, 2016:

“The Board finds by a preponderance of the evidence through the testimony of the witnesses; the video tape recording of the October 31, 2011, incident (J-Exhibit 2); and the supporting evidence that the Respondent was less than [sic] credible in his testimony. The respondent was in the cell with the inmate and Lt. Dartt and was within four feet of the incident. The evidence shows that even if the Respondent did not see the initial strike by Lt. Dartt with his fist[,] it is unreasonable to believe that he did not see Lt. Dartt kicking and otherwise using force on inmate Freeman. Finally, he admitted that the information he recorded in his incident report (J-Exhibit 3) was information provided to him by Lt. Dartt and not his own observations. This information is inconsistent with what actually occurred and his incident report was false. His statement to OPR stayed consistent with his false incident report which caused him to provide false and misleading information to OPR. He had the opportunity with OPR to correct the record through his statement (J-Exhibit 4) regarding what actually occurred on October 31, 2011, and he chose not to do so in violation of Sheriffs and General Orders.”

¶ 20 The Merit Board, after “assessing the credibility of the witnesses and the weight to be given the evidence in the record,” ordered that Officer Salas be suspended from duty for a period

of 45 days, effective July 8, 2014. The Merit Board concluded that Officer Salas violated the following Sheriff's Orders, General Orders, and Merit Board Rules:

- Sheriff's Order 11.2.2.0, "Response to Resistance/Use of Force Duties, Notifications and Reporting Procedures" (establishing reporting requirements for incidents involving the use of force and, particularly, an officer's knowledge of suspected or actual excessive use of force);
- Sheriff's Order 11.2.1.0, "Response to Resistance/Use of Force Policy" (defining "Excessive Force" and mandating appropriate actions for officers that view suspected or actual excessive use of force);
- General Order 24.9.1.0, "Reporting Incidents" (outlining the reporting policy and requiring CCDOC staff to "completely and accurately document any incident or situation that he or she observes or that is reported to him/her");
- General Order 3.8, "Ethics and Standards of Conduct" (establishing professional standards of CCDOC employees' conduct);
- General Order 4.1, "Internal Investigations" (crafting guidelines to redress "serious misconduct," which includes "making a false official report");
- Sheriff's Order 11.2.20.0, "Rules of Conduct" (prohibiting the failure to "be truthful with external and/or internal agencies in an investigation"); and
- Article X, Rules of the Cook County Sheriff's Merit Board (barring any violations of "any of the general orders, special orders, directives, or rules and regulations of the Cook County Sheriff's Office").

¶ 21

Procedural History

¶ 22 Officer Salas filed his complaint for administrative review with the Circuit Court of Cook County on October 30, 2015. On July 27, 2016, the circuit court heard oral arguments by the parties and entered its order that day affirming the Merit Board's October 15, 2015, decision to suspend Officer Salas. Officer Salas timely filed his notice of appeal of the circuit court's order on August 26, 2016.

¶ 23 We have jurisdiction to review the circuit court's judgment under section 3-112 of the Code of Civil Procedure governing administrative review (735 ILCS 5/3-112 (West 2016)) and pursuant to Illinois Supreme Court Rules 301 and 303 governing appeals from final judgments entered below. (Ill. S. Ct. R. 301 (eff. Feb. 1, 1994); R. 303 (eff. May 30, 2008)).

¶ 24

ANALYSIS

¶ 25 Officer Salas raises two issues on appeal: (1) whether the Merit Board's findings are against the manifest weight of the evidence; and (2) whether the Merit Board had "just cause" to suspend him. We address these two arguments in turn.

¶ 26 Our judicial review of an administrative decision is governed by the Administrative Review Law. (See 735 ILCS 5/3-101 *et seq.* (West 2016).) When a party appeals the circuit court's decision on a complaint for administrative review, our role is to review the administrative decision rather than the circuit court's decision. *Walker v. Dart*, 2015 IL App (1st) 140087, ¶ 34. The applicable standard of review, and thus the degree of deference given to the agency, depends upon whether the question presented is one of fact, one of law, or a mixed question of law and fact. *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 390 (2001). An agency's factual findings will not be overturned unless they are against the manifest weight of the evidence. *City of Belvidere v. Illinois State Labor Relations Board*, 181 Ill. 2d 191, 205 (1998). Our review of legal issues is *de novo* *AFM*, 198 Ill. 2d at 390. Mixed questions of

law and fact are reviewed for clear error. *Id.* at 391.

¶ 27 We first consider whether the Merit Board’s findings are contrary to the manifest weight of the evidence; and, even if they are not, we must assess whether the findings of fact provide just cause for the Merit Board’s decision to suspend Officer Salas. *Department of Mental Health and Developmental Disabilities v. Civil Service Comm’n*, 85 Ill. 2d 547, 550-51 (1981).

¶ 28 I. The Manifest Weight of the Evidence

¶ 29 An agency’s findings and conclusions on questions of fact are deemed to be *prima facie* true and correct. *Belvidere*, 181 Ill. 2d at 205. The Merit Board’s factual determinations will be overturned as against the manifest weight of the evidence only when “the opposite conclusion is clearly evident.” *Id.* “It is the responsibility of the Board, as the administrative agency, to weigh the evidence, determine the credibility of the witnesses, and resolve conflicts in the testimony.” *Matos v. Cook County Sheriff’s Merit Board*, 401 Ill. App. 3d 536, 542 (2010).

¶ 30 We note that the record on appeal does not include the video footage entered as Joint Exh. 2 in the Merit Board hearing and reviewed by counsel for both parties and the hearing officer. Officer Salas, as the appellant, had “the burden to present a sufficiently complete record of the proceedings” to support his arguments. *Foutch v. O’Bryant*, 99 Ill. 2d 389, 391-92 (1984). “Any doubts” that may arise from the incompleteness of the record will be resolved against him, and where the record is incomplete, we will “presume” that the order of the Merit Board “had a sufficient factual basis.” *Id.* When the court noticed that the video footage did not appear to be part of the record, it had the Clerk of the Court contact Mr. Salas’s counsel to confirm whether this was so. We then granted Mr. Salas’s motion for leave to supplement the record with the video footage. However, the record was not supplemented as of a week after the deadline the court had given Mr. Salas’s counsel for providing it with the video footage. While we would have allowed the supplement to the record that Mr. Salas requested, the absence of the video in

this case does not pose any problem for our review because there are detailed witness accounts of the video footage in the record. These accounts fully support the Merit Board's factual findings.

¶ 31 Officer Salas claims the Merit Board's findings of fact must be overturned because "[t]he only evidence supporting the Board's conclusion that Lieutenant Dartt 'punched' or 'kicked' detainee Freeman in the holding cell was the video footage," and "the video footage is less than clear on what type of force was used." However, whether evidence is "less than clear" is not the standard for overturning an agency's finding of fact. "[B]ecause the weight of the evidence and the credibility of the witnesses are within the province of the [agency], there need only be some competent evidence in the record to support its findings." *Trettenero v. Police Pension Fund of the City of Aurora*, 333 Ill. App. 3d 792, 802 (2002) (internal citations omitted). The Merit Board reviewed the video tape and heard extensive testimony from Officer Salas and Ms. Parker. With both witnesses, counsel for both Officer Salas and the Sheriff asked questions about the crucial two minutes of videotape in minute detail, asking the witnesses to identify the positions of Mr. Freeman and the correctional officers, the viewing perspectives of the people in the holding cell, and the sequence of events depicted in the footage. Even if the recording was "less than clear," it is within the province of the agency to weigh the evidence, determine the credibility of the witnesses, and resolve conflicts in the testimony. See *Matos*, 401 Ill. App. 3d at 542. Ms. Parker's description of the video in her testimony includes her observing Lt. Dartt in a kicking posture, putting his foot on Mr. Freeman's neck area. This is a sufficient basis on which to uphold the Merit Board's findings.

¶ 32 Officer Salas also claims "[t]here was no evidence whatsoever—testimonial, direct, circumstantial, or inferential—demonstrating that Officer Salas observed any excessive force." As the Merit Board explicitly found, "[t]he respondent was in the cell with the inmate and Lt. Dartt and was within four feet of the incident," and "[t]he evidence shows that even if the

Respondent did not see the initial strike by Lt. Dartt with his fist[,] it is unreasonable to believe that he did not see Lt. Dartt kicking and otherwise using force on inmate Freeman.” There was evidence to support this as, on cross-examination, Officer Salas acknowledged that he was in the doorway to the holding cell during the operative portion of the video footage, and that he was roughly four feet away from Lt. Dartt and Mr. Freeman during the take down. We cannot say, as Officer Salas asks of us, that “the opposite conclusion is clearly evident,” or that no evidence supported the Merit Board’s finding that from his vantage point he would have seen Lt. Dartt kicking a prone detainee. See *Belvidere*, 181 Ill. 2d at 205.

¶ 33 Officer Salas’s final argument turns on a twisted interpretation of General Order 24.9.1.0. He draws our attention to the language of that Order in section VII.B.2.: “CCDOC staff shall completely and accurately document any incident or situation that he or she observes *or that is reported to him/her*.” (emphasis added). From this provision, he claims that he cannot “be prohibited from documenting facts that were reported to him.” We do not read the Merit Board’s findings as a censure of Officer Salas for repeating what Lt. Dartt—as a witness to the events—claimed happened. Rather, the Merit Board found that Officer Salas “admitted that the information he recorded in his incident report * * * was information provided to him by Lt. Dartt and not his own observations,” and this “information is inconsistent with what actually occurred and his incident report was false.” The Merit Board found against Officer Salas on this point because he reported based on Lt. Dartt’s account, omitting the fact that he was reporting only what someone else had told him and omitting Lt. Dartt’s actions that were inconsistent with this report and which, according to the Merit Board’s findings, Officer Salas himself *must have seen* from his vantage point four feet away.

¶ 34 Officer Salas calls our attention to *Zions v. Police Board of Chicago*, 67 Ill. App. 3d 680, 684 (1978), which, like this case, involves charges that one officer failed to fully and accurately

report another officer's misconduct. However, the facts in *Zions* are quite different. Officer Zions was charged with filing a false report to the Chicago Police Department because he omitted the presence of two additional officers in the apartment where an altercation between police and a witness took place. *Id.* at 684. A key point in *Zions* was that the parties before the Police Board relied on a stipulated set of facts, and "the Board neither had the opportunity to observe the demeanor of the witnesses nor to ask additional questions." *Id.* at 683. We held that "[t]he evidence was not sufficient to establish that Zions' failure to state that [the other officers were present] was intentional or even a falsehood." *Id.* at 684. By contrast, the Merit Board here had ample means to probe witnesses and follow counsels' examinations of both the witnesses and the video footage of the altercation between Lt. Dartt and Mr. Freeman. From this evidence, the Merit Board could assess whether Officer Salas satisfied his reporting requirements. Also, in this case, in contrast to *Zions*, Officer Salas repeated his false reporting during the OPR investigation, telling OPR that his Incident Report was true and accurate, after he had been given a chance to review the videotape.

¶ 35 Officer Salas also argues that the Merit Board committed a gross error in concluding, as part of its conclusions of law, that he "failed to intervene in Lt. Dartt's use of force in violation of Sheriff's Order 11.2.1.0, Sections II, V(E), VII(C), XIII(A-C)." He argues that there was no evidence that Officer Salas should have intervened during Lt. Dartt's interaction with Mr. Freeman. We agree that there was no showing that Officer Salas should have intervened. However, when we compare the Merit Board's "conclusions of law" with the Sheriff's complaint, it is clear that Merit Board's "conclusions of law" simply cites all of the provisions—including portions of Sheriff's Order 11.2.1.0—that are cited in the complaint. Although the complaint broadly alleged and the conclusions of law broadly found that Officer Salas violated each of the listed Sheriff's Orders, General Orders, and Rules, the testimony before the Merit

Board focused on his failure to prepare an accurate incident report and not on any failure to intervene in another officer's use of force. It is clear that the Merit Board's suspension of Officer Salas did not rest on any failure to intervene but rather on the fact that Officer Salas filed a false incident report. We therefore disregard the citation of Sheriff's Order 11.2.1.0 in the Merit Board's conclusions as surplusage that played no role in the Merit Board's decision.

¶ 36 For these reasons, we affirm the factual findings of the Merit Board.

¶ 37 II. Just Cause for Suspension

¶ 38 Officer Salas next contends that no "just cause" existed to warrant his 45-day suspension. "It is well settled that considerable deference should be accorded the administrative agency's finding that cause exists," and will only be overturned if "arbitrary and unreasonable or unrelated to the requirements of service." *Yeksigian v. City of Chicago*, 231 Ill. App. 3d 307, 312 (1992). "Cause" has been judicially defined as "some substantial shortcoming which renders the employee's continuance in office in some way detrimental to the discipline and efficiency of the service and which the law and sound public opinion recognize as good cause for his no longer holding the position." *Department of Mental Health*, 85 Ill. 2d at 551 (internal citations omitted). Neither the appellate court nor the trial court may substitute its judgment for that of the administrative agency. *Yeksigian*, 231 Ill. App. 3d at 312.

¶ 39 Officer Salas's primary argument here is that Officers Walker and Diaz, who were not suspended, "were similarly situated and/or more culpable than Officer Salas." What Officer Salas ignores is the critical fact that neither Officer Walker nor Officer Diaz submitted any false or incomplete reports. The fact that Officer Salas filed an incident report means he was differently situated than the other officers to whom he compares himself, even if they all observed the same conduct by a fellow officer.

¶ 40 The Sheriff's General Orders make clear that "[i]t is the policy of the CCDOC to have written procedures for reporting and documenting incidents involving staff, inmates, and visitors, as well as to ensure that incidents or problems with the facility * * * are reported and documented in a timely and professional manner." General Order 24.9.1.0. That same Order provides that "Any employee failing to file a report or filing a false report shall be subject to disciplinary action up to and including termination of employment and/or the filing of criminal charges." We cannot say the Merit Board acted in an arbitrary or capricious manner by temporarily suspending Officer Salas for failure to accurately report this incident. This disciplinary action is in the service of a rational policy governing CCDOC employees, and Officer Salas's 45-day suspension was warranted for "conduct detrimental to the discipline and efficiency of the service." See *Department of Mental Health*, 85 Ill. 2d at 551. We therefore affirm the disciplinary action imposed by the Merit Board.

¶ 41 CONCLUSION

¶ 42 For the foregoing reasons, we confirm the decision of the Merit Board and affirm the ruling of the circuit court.

¶ 43 Affirmed.