

Public Law Board No. 3794

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
CSX Transportation, Inc.

STATEMENT
OF
CLAIM:

Trackman R. E. Williams' dismissal was without just cause and he shall be reinstated with seniority and all other rights unimpaired and compensation for wage loss.

FINDINGS:

Claimant was dismissed for failure to protect his assignments being absent from duty July 3 through August 20, 1984, and for vicious and uncivil conduct.

The record shows that claimant was in prison during that period of absence and had pleaded guilty to the charge of voluntary manslaughter in the death of a man by shooting him with a rifle on a Georgia road. Claimant was sentenced to serve 20 years for the shooting offense, 5 years in prison and 15 on probation, and was fined \$2,500. He was confined to jail for 10 months and then released on probation.

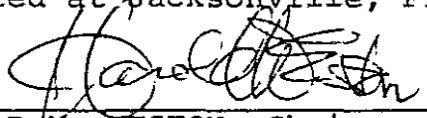
Claimant testified that he shot the man when he came to claimant's home with claimant's wife at about 3 a.m. Claimant was alone with his children at the time. He testified that he did not intend to aim to kill and called the police himself, thinking that the man was wounded.

There may have been some provocation in this case and the Mitchell County, Georgia, court appears to have taken ^{that} circumstance into consideration.

No persuasive basis exists, however, for setting aside Carrier's decision to terminate claimant's employment. Imprisonment in this setting is not a valid excuse for prolonged absence and Carrier's conclusion that it could not rely on claimant's judgment and balance is not capricious or without reasonable basis.

AWARD: Claim denied.

Adopted at Jacksonville, Florida, March 17, 1987.


HAROLD M. WESTON, Chairman

W. H. Moore, Jr.
Carrier Member


Employee Member

