

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 18

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: CSX Transportation, Inc.

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

Dismissal of S. M. Mosely, ID# 171284, as a result of investigation held November 9, 1990, at Tampa, Florida.

FINDINGS

On August 9, 1989, the Carrier notified Claimant Mosely to appear for a formal investigation in that he had been charged with being in violation of the law and conduct which damaged the Carrier's reputation as a result of being adjudicated guilty of conspiracy and extortion in the United States District Court, Jacksonville, Florida, on August 4, 1989, United States Judge T. E. Scott presiding.

After two postponements, the hearing took place on November 9, 1990. On November 26, 1990, the Carrier notified the Claimant that he had been found guilty of violating the law and other charges and was thereby dismissed from the service of the Carrier. Thereafter, the organization filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of being in violation of the law and conduct which damaged the Carrier's reputation. The record is clear that the Claimant was found

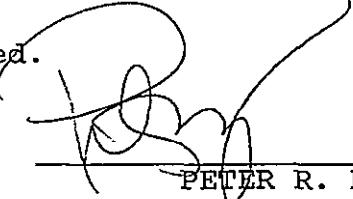
guilty in the federal district court of conspiracy and extortion and that that conviction was publicized in the newspapers. The Claimant was subsequently sentenced to prison and to probation.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

In the case at hand, the Claimant was found guilty of a very serious offense. This Board cannot find that the Carrier's action in any way was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

AWARD

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Dated: _____