OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

MELVIN DIGGS,	)	No. ED108521
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of the City of St. Louis
v.	)	Cause No. 1822-CC03958
	)	
CITY OF ST. LOUIS, MISSOURI, et al.,	)	Honorable Michael F. Stelzer
	)	
Respondents.	)	Filed: November 24, 2020

Melvin Diggs (Diggs) appeals the judgment of the trial court, which affirmed the decision of the Civil Service Commission (Commission) upholding Diggs' termination from employment as a Correctional Shift Supervisor for the Division of Corrections, due to a violation of the Division's Policy on Workplace Violence. Diggs argues that the Commission's decision is unsupported by competent and substantial evidence, that the pre-termination hearing violated due process, and that the regulation is unconstitutional on its face and as applied to Diggs.

AFFIRMED.

Division Four Holds: The Commission's finding that Diggs' statement, "what if I come and shoot up the place," was a violation of the workplace violence policy, is supported by competent and substantial evidence on the whole record. The Commission's decision does not violate Diggs' First Amendment right to free speech because the evidence supports the conclusion that Diggs' statement was a "true threat," which is subject to permissible restriction. Additionally, the City's pre-termination procedure provided adequate due process to Diggs. The workplace violence policy is not overbroad or void for vagueness. Finally, it does not violate equal protection as Diggs alleges, because the prohibition against "verbal" threats includes both spoken and written threats of violence.

Opinion by: Gary M. Gaertner, Jr., P.J.
Philip M. Hess, J., and Michael E. Gardner, J., concur.

Attorney for Appellant: Paul L. Schmitz
Attorneys for Respondent: Julian Bush, Abby Duncan