BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

COLUMBIA COUNTY

and

COLUMBIA COUNTY EMPLOYEES UNION LOCAL 995 AFSCME, AFL-CIO

Case 251
No. 65589
MA-13260

(Bortz Discipline)

Appearances:

Mr. Wayne Bortz, personally, and **Mr. David White,** Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 8033 Excelsior Drive, Suite B, Madison, WI 53717-1903, on behalf of Wayne Bortz and Local 995.

Attorney Joseph Ruff, III, Corporation Counsel, Columbia County, 120 West Conant Street, Portage, WI 53901, on behalf of Columbia County.

ARBITRATION AWARD

The County and the Union are parties to a collective bargaining agreement which was in effect at all times relevant to this proceeding and which provides for the final and binding arbitration of certain disputes. The Union requested and the County agreed that the Wisconsin Employment Relations Commission appoint an arbitrator to resolve a grievance filed on behalf of Wayne Bortz, who is referred to below as Bortz or Grievant. The Commission appointed Paul Gordon, Commissioner, to serve as the arbitrator. Hearing on the matter was held on April 20, 2006 at the County Highway Shops at Wyocena, Wisconsin. A transcript was prepared and made available to the Parties and a briefing schedule was established. The Parties filed briefs and reply briefs and the record was closed on July 13, 2006.

ISSUES

The Parties stipulated to the following issues to be decided:

Did the Employer have just cause to issue the disciplinary notice dated September 29, 2005?

If not, what is the appropriate remedy?

RELEVANT CONTRACT PROVISIONS

ARTICLE 3 – MANAGEMENT RIGHTS

3.01 The management of the Highway Department and direction of the working forces is vested exclusively in the Employer, including, but not limited to, the right to hire, suspend, or demote, discipline or discharge for just cause, to transfer or lay off because of lack of work or other legitimate reasons, to subcontract for economic reasons, to determine any type, kind and quality of service to be rendered to the citizenry, to determine the location, operation and type of the physical structures, facilities, or equipment of the Highway Department, to plan and schedule service and work, to plan and schedule any training programs, to create, promulgate and enforce reasonable work rules, to determine what constitutes good and efficient County service and all other functions of management and direction not expressly limited by the terms of this agreement. The Union expressly recognizes the prerogative of the Employer to operate and manage its affairs in all respects with its responsibilities.

BACKGROUND AND FACTS

The County had in effect at all material times herein the following personnel policies which apply to Union employees and others and which state in pertinent part:

Sec. 7.18 Misconduct-Unacceptable Performance

The requirements of this Section shall apply to all County employees:

. . .

(b) **Violation of County Rules of Conduct.** The continued employment of County employees shall be contingent upon acceptable conduct, satisfactory job performance and compliance with the rules and regulations set forth in this Personnel Manual. County employees are also expected to observe a set of reasonable non-statutory rules governing their behavior on the job. Failure to display acceptable job performance or the violation of these rules and regulations shall be cause for disciplinary action including reprimands, suspension without pay, or dismissal. The exact form of discipline shall depend on the seriousness of the offense committed. An employee shall be considered to have engaged in misconduct if he/she violates any of the following listed reasons, such list not to be considered all inclusive:

. . .

(11) The employee has been abusive in his/her behavior and language or has been abusive in his/her conduct to fellow employees or the public.

. . .

(21) The employee has demonstrated conduct unbecoming an employee of the County while on or off duty.

. . .

(33) Willful misconduct or insubordination.

A copy of the County Personnel Policies and Procedures Manual which contains the above provisions has been distributed and made available to all employees, including Grievant, prior to the events involved in this matter.

Grievant has been employed by Columbia County for about 38 years and has been a foreman for the Highway Department paving operation for about the last four years. For twenty years before that he operated a roller in the paving operation. The County paves roads and parking lots. This usually involves three or more people on or about a paver and other machines and may include several truck drivers who bring blacktop to the paving machine. The truck drivers will assist paving by using a hand shovel to put blacktop in low spots. These spots are generally pointed out by the foreman or whoever is using a lute to level off blacktop. A lute is a type of rake used to level blacktop. It is often quite loud during paving so that voices sometimes have to be raised to be heard. On the day of the incident involved here, September 26, 2005, Grievant was using a lute in the paving of a parking lot at the Fall River boat landing.

Nathan Price, who is now a County assistant State Patrolman, has been employed in the County Highway Department for about five years. He was hired as a general equipment operator and worked in that capacity for about two years before posting into a position as a truck driver. He was working as a truck driver on September 26, 2005 delivering blacktop and helping on the boat landing parking lot project. As a general equipment operator he did some paving, but not a lot. As of September 26, 2005 he had not had a lot of experience working on the paving crew. He had worked with Grievant a few times on paving.

County employees in the Highway Department are required to wear safety glasses while working. When hired, the County issues two pair of safety glasses to the employee, one clear and one dark tinted. The safety glasses are the wrap around type that fit close to the face. Some employees purchase yellow tinted glasses of the same type on their own and wear them on the job. There is no County rule or other directive which specifies what color of safety glasses an employee must wear while working.

Grievant is of the opinion that it is better to wear clear or yellow tinted safety glasses while working on a paving project because he feels wearing dark tinted glasses makes it more difficult to see and work with black blacktop while doing hand work, such as shoveling. Although he preaches around the paver about not wearing dark sunglasses and has instructed other people not to wear dark safety glasses on the job, he has never told or directed Price not to wear dark tinted safety glasses while helping with paving. There is nothing in the record which indicates he has any authority to direct employees as to what type or color of safety glasses they are to wear. Price is of the opinion that he does not have any problem seeing things such as low spots on paving projects while wearing dark tinted safety glasses.

September 26, 2005 was a clear and sunny day. Price was wearing his dark tinted County-issued safety glasses while driving truck and doing hand shoveling work at the paving project about mid morning. He put a shovel full of blacktop in a spot where he thought Grievant wanted it. Grievant, who was operating the lute, motioned for Price to come over to him. Price asked Grievant if he wanted any more anyplace and Grievant then said in a loud and angry tone "if you can't see where it needs to be, take those fucking glasses off". Grievant then grabbed Price's safety glasses off his face and threw them between twelve and thirty feet across the parking lot. Price felt threatened and angry. He took the shovel he was holding and put it back in the paver and got his glasses He then told Grievant he "can do your own fucking hand work", and walked away. Price went to his truck, left the paving site and drove to his next job site.

Grievant testified that he does not remember if Price gave the glasses to him or if he took them off his head. He also denied swearing at Price but recalls Price swearing.

At lest one other employee, Calkins, who was a seven-year employee (six doing paving) and working on the back of the paver, was within five or six feet of this and saw, over his shoulder, Grievant motion to Price to come to him, saw the glasses come off, saw Grievant throw the safety glasses, and saw Price put the shovel in the paver and walk to his truck. Calkins did not hear any conversation due to the noise of the machinery. Calkins was surprised to see the glasses come off and go flying. Other than this incident he has never seen Grievant yank dark glasses off of someone. If someone grabbed his glasses off and threw them Calkins would think that a weird thing to do and possibly he'd be kind of upset. In Calkins' experience when an employee who does no do that kind of work is asked to help and do hand work it is easier to tell people where to put the blacktop rather than letting them figure it out for themselves.

The following day Price went to Assistant Highway Commissioner T.O. Boge and complained about Grievant's conduct. Price wrote a statement of what happened at Boge's request. Price did not include in the written statement what he had said to Grievant after the glasses were thrown, but did tell Boge that he swore at Grievant. Boge investigated further, spoke with Calkins and others to see who else may have seen any of the incident, and spoke with Grievant (accompanied by the Union President) on or about September 29th. Grievant told Boge that he did remove the glasses, that he did not swear, that he did give the glasses a toss, that it was surprising how far they went but it was done in a joking manner.

At the hearing in this matter Grievant testified, essentially, that after the incident with Price he thought Price looked a little upset, that he, Grievant, probably shouldn't have done that, and he probably had done maybe something wrong. Grievant also would characterize this that management has blown this whole thing out of proportion.

Price is 41 years old, about five foot seven inches tall and weighs 190 pounds. Grievant is 57 years old, a couple of inches taller than Price, and weighs 217.5 pounds.

After further consultation with management, Boge prepared a letter of discipline to Grievant for the incident. Price was not disciplined. Boge was aware of a prior discipline issued to Bortz but did not factor that into the discipline here, it being more than a year old. The prior matter was in September of 2003 and was issued as part of a discipline agreement between the County, Grievant and the Union. Both agreed not to take certain actions. The discipline was a two-day unpaid suspension, repayment of some damages to a County truck, and attendance at anger management counseling. Although not well developed at the hearing in this matter, the surrounding circumstances of that prior discipline involved a truck backing up close to Grievant and possibly others, and him striking the truck with a hammer several times. Grievant has also been disciplined for a matter that happened more than five years ago and is not part of the record nor was it considered by Boge.

The September 29, 2005 disciplinary notice in this case states in pertinent part:

> Wayne Bortz
>
> From the incident occurring on September 26, 2005 you were in violation of Columbia County Personnel Policies & Procedures Manual Sec 7.18 sub sec B Lines 11 (Employee has been abusive in his behavior, language and conduct to a fellow employee), 21 (Employee has demonstrated conduct unbecoming and (sic) employee of the County while on duty), & 33 (Willful misconduct).
>
> For this conduct Wayne Bortz will:
>
> 1. Receive a second written warning
>
> 2. Receive a 3-day suspension without pay.
>
> 3. Seek counseling through Dr. Darald Hanusa at Midwest Center for Human Services at 2828 Marshal Court Madison WI 53705 (608-231-3300) Ext. 229.
>
> 4. Wayne must sign a release form, which will only give the Doctor permission to give the employer an assessment report and inform them of Wayne's attendance.

5. Wayne must successfully complete the assessment within 30 days.

Any violation under Section 7.02 of the Personnel Manual will result in further disciplinary action and may result in discharge.

. . .

Grievant complied with the disciplinary notice and grieved the discipline, resulting in this arbitration. Other matters appear as contained in the discussion.

POSITIONS OF THE PARTIES

Union

In summary, the Union's brief acknowledges Grievant grabbed the dark sunglasses from Price's face and threw them. The Union contends Grievant told Price that you can't see where to put the asphalt if you have dark sunglasses on. The Union observes the statements made my Price to Grievant, and that this was omitted in his written statement, and that he was not disciplined for insubordination. The Union argues that in setting the level of discipline the grievant's prior disciplinary record was not considered by Boge, and that it is inappropriate to consider that in this case.

The Union argues that grievant's conduct might be criticized for being overly dramatic. To say it was abuse is an overreach that violates the just cause standard. Boge conducted a very soft investigation. There is no real evidence of abuse. "Conduct unbecoming" and "willful misconduct" are add-on charges since there was no particular evidence in support of them. Prince's hurt feelings cannot constitute just cause for a three-day suspension. Bortz acted not out of anger, but out of a desire to drive home an important point relating to the quality of work.

The Union further contends that the County's description of the incident as aggressive and altercation is a stretch. There is no evidence Bortz called Price a profane name, there is a certain level of coarse language used without disciplinary concern. Bortz's swearing is not being disciplined. Prior discipline should not be considered. The removal of the glasses is something less than the violent outburst the County has described. Calkins' testimony supports Bortz. Bortz does not have an anger management problem. The County should have produced Dr. Hanusa's evaluation to prove it and failing to do so creates a presumption that the document does not confirm that key element. The Union notes that perhaps some discipline is appropriate but a three-day suspension is beyond the pale.

County

In summary, the County argues it has met the just cause standard under either the seven-part test or the two-part test. Bortz's conduct was unacceptable misconduct under any reasonable view of the facts. Price's description of the incident is the most accurate. With the exception of swearing at Price, Bortz admitted to all of the critical facts of the incident, and he recognized his conduct was inappropriate. The County contends that Boge's decision to issue a three-day suspension was an entirely reasonable response to serious misconduct. Employees are issued both safety glasses and are required to wear them. The choice of which is up to the individual. Boge did a thorough investigation and based the discipline on the actions towards Price, not solely on Bortz's history of prior discipline. Boge has experience in disciplining employees for confrontations. Boge knew Bortz lacked the ability to control his anger. He was aware of the 2003 incident. Bortz's testimony showed no improvement in his anger management since 2003.

The County further argues that the discipline fulfills the components of the just cause test. The County established conduct by Bortz in which it has a disciplinary interest. It was an unprovoked angry outburst wherein Bortz yelled and swore at Price and forcefully removed Price's safety glasses and threw them a considerable distance. Bortz violated multiple sections of the policy and procedures manual and created a safety violation. The outburst reveals a pattern of misconduct.

The County also argues that the Union's attempt to minimize the events may represent Grievant's assessment of what occurred, but that version of the events is simply not supported by the record. Bortz's personal prejudice against the sunglass type of safety glasses is not a work rule that Price is required to follow and Bortz's methods could hardy be characterized as appropriate behavior by a foreman toward a subordinate. Price admitted he swore, Bortz did not recall swearing at Price. Bortz undisputedly started an altercation. The County also argues that Boge had sufficient facts to make the appropriate disciplinary decision that Bortz had committed misconduct at a level justifying a three-day suspension without pay. The Union attempts to dismiss the incident as a bad joke and hurt feelings. This is inconsistent with the record.

DISCUSSION

Because this is a discipline matter the County has the burden of proof. The collective bargaining agreement requires that there be just cause for discipline. The issue is did the Employer have just cause to issue the disciplinary notice dated September 29, 2005. If not, what is the appropriate remedy?

The agreement does not define just cause and the Parties did not stipulate to a definition of just cause. The County suggested two different tests, both of which it feels it met. In order to maintain consistency and provide some measure of predictability for the Parties in applying the agreement language, it is appropriate to use the just cause definition which has been applied in prior, relatively recent, discipline grievance arbitrations between the same Parties. See, COLUMBIA COUNTY (HIGHWAY DEPARTMENT), CASE 229, NO. 62687, MA-12398 (GORDON, 12/04); COLUMBIA COUNTY (HIGHWAY DEPARTMENT), CASE 228, NO. 62686, MA-12397 (GORDON, 12/04); COLUMBIA COUNTY (HIGHWAY DEPARTMENT), CASE 233, NO. 63355, MA-2560 (MCLAUGHLIN, 10/04). See also, COLUMBIA COUNTY, CASE 226, NO. 62301, MA-2230 (BURNS, 7/04). This definition of just cause has two elements. The first is that the employer must establish conduct by the Grievant in which it has a disciplinary interest. The second is that the employer must establish that the discipline imposed reasonably reflects its disciplinary interest.

As to what conduct of the Grievant has been established by the County, there is ample evidence from the credible testimony of Price, Calkins and Boge along with certain admissions of Grievant as to what happened on September 26, 2005 at the paving project. Grievant was the foreman on the job operating the lute. He was giving direction to hand shovel workers, such as Price, as to where to put shovels of blacktop. Price is not very experienced in doing that type of work and would not know where to put blacktop without some direction from Grievant. All employees at the job site are required to wear safety glasses. Price was never told by Grievant or anyone else not to wear dark tinted safety glasses (which are issued by the County along with clear ones) and he had his own option as to which to wear. It was a sunny day. Price shoveled blacktop where he thought Grievant wanted it and, when motioned over by Grievant, asked him if he wanted any more any place.

There is some dispute as to just what happened next, and that is whether Grievant swore at Price and whether Grievant took the dark tinted safety glasses off Price's face or if Price handed them to him. Grievant denies he swore at Price. Grievant testified that he does not remember if Price gave the glasses to him or if he took them off of Price's head. The evidence is clear and satisfactory that Grievant swore at Price and took the glasses off of Price's head. Price testified, credibly, that Grievant said in a loud and angry voice that "if you can't see where it needs to be, take those fucking glasses off". Price also testified, credibly, that Grievant grabbed his glasses from his face and threw them. Weighing against this is the testimony of Grievant. Grievant testified that he does not remember if he took the glasses off of Price. If Grievant really can't remember then he cannot say that he did not take them off and he cannot say that Price is not accurate. Adding to this is the admission Price made to Boge that he did remove the glasses. Boge's credibility on that point was never challenged and Grievant did not deny making the admission. It is also noteworthy that the Union brief and reply brief acknowledges that Grievant grabbed the glasses from Price's face. Even the written grievance form states that Wayne Bortz removed safety glasses from Nate Price's face and

threw them. Clearly Price is more credible than Grievant as to what happened with the glasses. Because Price is the more credible, his testimony as to being sworn at by Grievant in an angry tone is also more credible and persuasive. The County has established that Grievant swore at Price and then grabbed the safety glasses from Price's face.

There is a smaller dispute as to how far the glasses were thrown by Grievant. Price thought it was as far as thirty feet. Calkins thought it was ten or twelve feet. Grievant admitted to Boge that he was surprised at how far they went. This indicated that the glasses were thrown further rather than shorter. Although how far the glasses were thrown is not a large point or even necessary for an ultimate decision, throwing them further rather than a shorter distance is consistent with Grievant's swearing in an angry tone of voice and grabbing safety glasses off of Price's face.

Swearing at someone, grabbing their glasses from their face and how far they were thrown characterize the incident. This is not a joking situation as the Union suggests. Price felt threatened and was angry. Calkins would be upset if his safety glasses were grabbed off his face and thrown. Even Grievant admitted that he shouldn't have done that and had done maybe something wrong. Swearing and coarse language is not uncommon on many job sites. However, swearing at someone coupled with physical invasion of space and grabbing things, such as glasses, from someone is not common and is not something to be overlooked.

There is no dispute that Price put his shovel in the paver, retrieved his safety glasses and left that job site. There is no dispute that Price swore at Grievant as he did so and that he was not disciplined for swearing. Price did not put his swearing in his written statement but did tell Boge that he swore at Grievant. Price did not take any physical action against Grievant, invade his personal space or grab anything from Grievant. His conduct was reactionary and of a different character than that of Grievant.

With the above conduct of the Grievant established by the County, the next matter to consider is the County's disciplinary interest, if any, in the conduct. The County has an interest in the working environment and working relationships among the employees. The County's disciplinary interest in Grievant's conduct is clearly established as discussed below.

The management rights clause of the collective bargaining agreement maintains in the County the right to promulgate and enforce reasonable work rules. The County has several reasonable work rules that apply here. One such rule is that Highway Department employees must wear safety glasses while working. This rule reflects the County's legitimate interest in the safety of employees. When Grievant grabbed Price's safety glasses from his face and threw them this put Price in a less safe situation. This happened within several feet of a moving paving machine and around other pieces of equipment. The County's disciplinary notice did not specifically cite or refer to this rule or interest. The notice specified three specific lines or

rules alleged to have been violated. Although the general preamble to Sec. 7.18(b) refers to acceptable conduct, the notice does not rely on that. Therefore, it would not be appropriate and it would raise due process concerns to use that as a basis for upholding discipline here. However, that safety interest was impacted by Grievant and is implicated when considering the three specific rules cited by the County in its disciplinary notice.

The County has a policy and procedures manual which contains the three rules cited in the notice. The Union questioned Boge at the hearing about the distribution of the manual to employees, but did not argue in its brief or elsewhere that Grievant did not or should not have known of or been aware of the rules in the manual. The manual was generally available and Grievant is a 38-year employee of the County. If the rules in the manual are not intuitive enough, there is nothing in the record to indicate that Grievant was not aware of the existence of County work rules that would govern his conduct in this case.

The first rule cited in the discipline notice is Sec. 718(b)(11), which is:

> The employee has been abusive in his/her behavior and language or has been abusive in his/her conduct to fellow employees or the public.

The notice specified "Employee has been abusive in his behavior, language and conduct to a fellow employee". Boge testified that he did not issue the discipline to Grievant for his language, but rather for being abusive in taking off another employee's glasses and throwing them. As mentioned above, employees are required to wear safety glasses. It is abusive for Grievant to have taken them off Price and thereby exposing him to a safety concern. It is demeaning to Price and disrespectful of his person and job performance. It subjects him to a personal predilection of Grievant as to the type of safety glasses to wear which Grievant has no right to demand of Price. It is abusive for Grievant to have taken the glasses off Price's face. It is abusive for Grievant to have taken Prices property and thrown them. Grievant is an experienced foreman on the job and in a position of responsibility. To take off Price's glasses and throw them in the angry manner in which he did is disrespectful of another employee, and more so given the leadership position of Grievant. Price was not very experienced in the particular task and the situation called for instruction and direction. Price justifiably felt threatened and angry. Calkins would be upset if his glasses had been grabbed from his face and thrown. Even the Union reply brief admits that Bortz should not have removed Price's glasses. Grievant violated Sec. 7.18(b)(11) and the County has established a disciplinary interest.

Sec. 7.18(b)(21) states:

> The employee has demonstrated conduct unbecoming and (sic) employee of the County while on or off duty.

For the same reasons that Grievant's conduct in taking off Price's safety glasses and throwing them is abusive to Price, it is also a demonstration by Grievant of conduct unbecoming an employee of the County. County employees are a reflection of the County and its formal organization. The way a County employee acts and conducts himself or herself is an action of the County through the employee. When a County employee is abusive to another employee it is a matter that goes beyond the two employees to the County and population generally. This incident occurred in front of other County employees in a public place on County time and business. Paving requires people to work together efficiently. Grievant's conduct interrupted Price's job duties. Price left the job site he was working in and went to another job site. The specific ramifications to the particular paving job, if any, are not of record. However, it is unbecoming of Grievant to have conducted himself in such a manner that a coworker felt compelled, justifiably, to leave the work area. The County has established a disciplinary interest in Grievant's violation of Sec. 7.18(b)(21).

The County notice also referenced Sec. 7.18(b)(33), which states:

Willful misconduct or insubordination.

Boge was applying the willful misconduct part of that subsection when he issued the discipline as conduct that breaks a rule knowingly. Again, Grievant's conduct did break the rules and it was misconduct. He did so knowingly. This was not an accident or something inadvertent. He motioned Price over to him, swore at Price and then grabbed and threw the safety glasses. Grievant's conduct is a violation of the subsection and the County has established a disciplinary interest in that violation.

Grievant's conduct is a violation of all three rules cited in the notice of discipline and provides the County with ample disciplinary interest in that conduct. The first element of just cause has been established.

The second element of just cause requires the County to establish that the discipline imposed reasonably reflects its disciplinary interest. In this case it does and the County has met that burden.

Boge testified that he imposed the discipline for the conduct of Grievant taking off the glasses and throwing them. Boge testified he did not consider the prior discipline of Grievant, but, he was aware of it. Boge was also aware of and had participated in several other discipline situations involving suspensions of several days for violation of similar work rules. The discipline here has not exceeded that general realm or level. At the hearing both Parties went into the details of the September 2003 discipline of Grievant for striking a County truck with a hammer as it backed close to him, and the two-day unpaid suspension and counseling assessment in that matter.

It is a usual and customary matter to take into account the work history and prior discipline of an employee in assessing the level of discipline imposed for just cause purposes. It is true that some discipline matters are old enough to become stale or not of any use in a current situation. Sometimes parties to a collective bargaining agreement put in a time limit as to how far back or how long a matter can be considered for just cause. Here, there is no language in the agreement that invokes a time limit. Boge did testify to the effect that he would not go back more than one year. In this case the level of discipline does reasonably reflect the County's disciplinary interest whether viewed as a single incident or when the prior discipline is taken into account. This case involved intentional conduct directed towards another employee by a foreman in a position of responsibility that implicated a safety concern, disrupted a work setting, was done in anger and violated three work rules. Had there been no prior discipline of Grievant, the three-day suspension without pay, second written warning to effectuate the suspension, and the counseling are all not unreasonable.

Grievant has had 38 years of good service to the County, and that works to his favor. Similar conduct by an employee with just a very few years of employment might well call for a longer suspension and other things. And the simple fact of the matter is he was disciplined for generally similar conduct just two years before resulting in a substantially similar discipline.

The Union argues that it was not established that Grievant has an anger management problem. Whether he has or not is not the point. His conduct was done in anger and some type of counseling, anger focused or not, is appropriate so that he can conduct himself appropriately in the future and correct the conduct which has led to his discipline. It will give him an opportunity to conduct himself in the workplace without threatening or demeaning anyone, and to avoid further incidents of discipline being imposed upon him.

The Union raises a concern that the County did not produce the Doctor assessment and therefore any conclusions draw from it should not be allowed. However, Grievant himself had as good if not better access to the same information. And, to the extent that Boge did not consider the prior discipline, that assessment in that case would not matter. The discipline here did not require any specific type of counseling. No inference is being drawn one way or the other as to whether Grievant has an anger management problem or anything else. Whether he does or not, counseling for his conduct is appropriate as part of the discipline and is reasonably related to the County's disciplinary interest.

The County considered relevant circumstances and factors in imposing the discipline it did. It did not consider anything inappropriate. What did or did not happen to Price from a disciplinary standpoint is not controlling here. The County imposed a measured discipline which is related to and designed to correct Grievant's conduct.

Accordingly, based upon the evidence and arguments in this case, I issue the following

AWARD

The grievance is denied. The County did have just cause to issue the disciplinary notice dated September 29, 2005. No remedy is made in that all elements of the discipline are reasonably related to the County's disciplinary interest in Grievant's conduct.

Dated at Madison, Wisconsin this 12th day of August, 2006.

Paul Gordon /s/
Paul Gordon, Arbitrator

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