

OFFICIAL

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 In the matter of *
 *
 JAMES M. DONOVAN *
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 Case No. 76-61-I *
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OPINION AND ORDER

Before: JULIAN, Chairperson, SERPE and DEWITT, Board Members.

OPINION

NATURE OF THE CASE

This is a request for investigation pursuant to Section 16.05(4), Stats. At the prehearing conference the request was framed as follows:

"Mr. Donovan requests that the Personnel Board investigate the matters which led up to his termination from employment with the Department of Transportation in June of 1972. He seeks full reinstatement to his position, effective from the date of his termination." Prehearing conference report dated July 6, 1976.

Counsel have filed briefs in support of and in opposition to the request.

BACKGROUND FACTS

Appellant was dismissed from employment with the DOT as an Account Examiner 3 in the Green Bay district office effective June 12, 1972. This followed a 30-day suspension effective May 31, 1972. Appellant received both suspension and discharge letters, both of which advised him of his right to appeal to the Personnel Board. He appealed neither action. These actions concerned an allegation of falsely reporting overtime hours.

On October 25, 1972, he was found guilty of three counts of misdemeanor theft following pleas of guilty, and placed on probation for three concurrent three year terms. The judgment of conviction was vacated and the case remanded on April 8, 1976, on an appeal to Circuit Court for Brown County, on the grounds that the trial court had failed to interrogate the

Appellant sufficiently to reveal that the plea was voluntary, that he understood the charge and the consequences likely to follow, and to adduce testimony to support the plea and from which the court might make a separate judgment as to whether or not the defendant was in fact guilty of the offenses charged. On remand, the charges against Appellant were dismissed.

APPELLANT'S CONTENTION

In his brief filed by counsel, Appellant advances a number of arguments why this board should exercise its discretionary power to investigate pursuant to S. 16.05(4), Stats. These arguments primarily concern on-going problems with the management of the Green Bay office relating to the following:

- (1) Handling of time sheets, vouchers and other records;
- (2) Policy and administration of overtime work including the practice of allowing employes to take compensatory time off and not reporting to the state the actual hours worked;
- (3) Other management problems such as inefficiency, poor morale, etc.

Appellant alleges that his discharge and criminal prosecution was the result of "poor management practices and shoddy recordkeeping practices in the Green Bay offices." letter-brief dated August 11, 1976, p. 4.

This board has held that the ". . . power to investigate should generally be invoked when broad policy questions are involved." Schwartz v. Schmidt, Wisconsin Personnel Board 74-18, 1/17/75. While this case undoubtedly is a matter of intense personal concern to the Appellant, we cannot discern broad policy questions in the allegations of mismanagement of the Green Bay office. Many of the allegations do not concern personnel transactions at all. Altogether, the problems alleged appear resolvable by adherence to basic, established management and personnel practices and regulations. We also

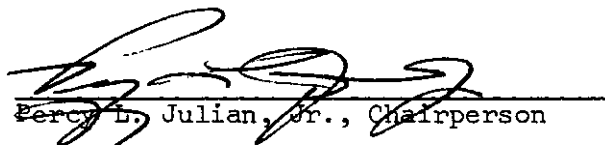
note that the Appellant failed to appeal the Department's actions in 1972 when he had mandatory appeal rights, and has provided no explanation for this failure. Therefore, while we would suggest that the Department of Transportation look into these charges if it has not already done so, we decline to conduct a Section 16.05(4) investigation in the matter.

ORDER

IT IS ORDERED that this request for investigation is denied.

Dated December 21, 1976.

STATE PERSONNEL BOARD


Percy L. Julian, Jr., Chairperson