

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 CARLTON PUGH, *
 *
 Complainant, *
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 v. *
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 Secretary, DEPARTMENT OF *
 NATURAL RESOURCES, *
 *
 Respondent. *
 *
 Case No. 86-0059-PC-ER *
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INTERIM
 DECISION
 AND
 ORDER

At the conclusion of the hearing in the above matter, and after the parties had agreed to make closing arguments rather than to submit post-hearing briefs, the complainant requested a copy of a transcript of the proceedings be provided him without charge.

The hearing in this case was recorded on magnetic tapes. Consistent with its standard practice, the Commission does not anticipate obtaining a transcription of the recording for the Commission's own use. The respondent did not request that a transcription be made. Therefore, at the time of this decision, no transcription of the hearing exists and the only recording is on magnetic tape.

The Commission's rule regarding transcripts is found in s. PC 5.03(9), Wis. Adm. Code:

A stenographic, electronic or other record of all hearings and such other proceedings as the commission may designate shall be made. Transcription of the record for purposes other than judicial review shall be at the expense of any party who requests the transcription. Copies of tape recordings or transcripts shall also be furnished at the expense of the party making the request. However, upon a showing of indigency and legal need, a party may be provided a copy of the transcript or tape recording without charge. Where indigency and legal need have been found, the commission shall, in its discretion,

determine whether to provide a copy of the transcript or to provide a copy of the tape recording.

Complainant stated that he is unemployed and has no source of income. For the purpose of deciding complainant's request, the Commission finds that the complainant is indigent.

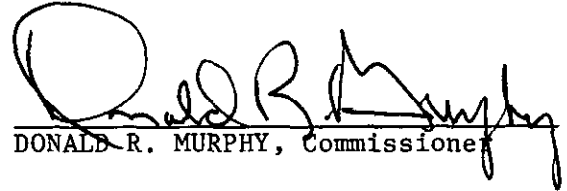
As to the legal need for the transcript, the complainant stated that he needed the transcript 1) in the event of an unfavorable decision from the Commission, to provide support to a petition for judicial review, and 2) in the event of a favorable decision from the Commission, to provide support for actions in other forums against various individuals and/or agencies.

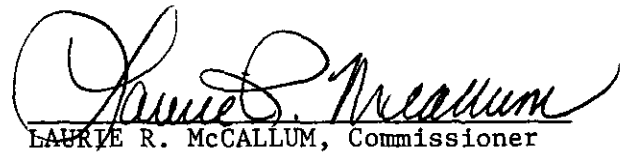
The above reasons do not provide a sufficient basis for a finding of legal need. If the Commission issues a decision that is unfavorable to the complainant and if a timely petition for judicial review is filed, the Commission will presumably have to file the return of record, including a transcript, with the court. The complainant will then have access to that transcript in order to prepare any arguments he may wish to present to the circuit court. Regardless of whether the Commission's decision is favorable or unfavorable to the complainant, the Commission has no responsibility to provide the complainant with a transcript in order to assist him in commencing or pursuing unspecified other legal options that may be available to him before other forums. The reasons advanced by the complainant are quite different from the more typical situation where a transcript (or copy of the recording) is important for adequately preparing a post-hearing brief or for supporting a motion.

In light of the above, the Commission denies the complainant's request for a copy of the transcript of the hearing in this matter.

Dated: July 13, 1988 STATE PERSONNEL COMMISSION

KMS:rcr
DPM/1


DONALD R. MURPHY, Commissioner


LAURIE R. McCALLUM, Commissioner