

ARTHUR J. VARRIALE,

Petitioner,

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v.

Case No. 86-CV-1324

STATE PERSONNEL COMMISSION  
(DEPARTMENT OF JUSTICE),

JUL 01 1987

Respondent.

Personnel  
Commission

JUDGMENT

The above-entitled proceeding having been commenced on May 8, 1986, to review a decision of the State Personnel Commission; and

The petitioner having appeared by Jeffrey A. Kremers, Fox, Carpenter, O'Neill & Shannon, the Commission having appeared by Carl A. Sinderbrand, Assistant Attorney General, and the Department of Justice having appeared by David C. Rice, Assistant Attorney General; and

The court having reviewed the record and having had the benefit of the written arguments of the parties; and

The court having filed its memorandum decision on June 18, 1987;

Now Therefore, IT IS ORDERED, ADJUDGED, AND DECREED that the decision of the Personnel Commission is affirmed and the petition for review is dismissed.

Dated at Waukesha, Wisconsin, this \_\_\_\_ day of June, 1987.

BY THE COURT:

Honorable Willis J. Zick  
Circuit Judge

ARTHUR J. VARRIALE,

Petitioner,

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MEMORANDUM DECISION

vs.

JUL 01 1987

STATE PERSONNEL COMMISSION,

Personnel  
Commission  
Respondent.

File No. 86-CV-1324

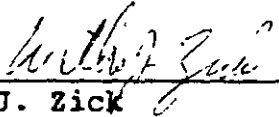
Counsel agree that findings of fact by the Respondent must be sustained by the Court if they are supported by "substantial evidence." All of the significant findings made by the Respondent meet this standard. They are basically based on undisputed facts. To the extent that there is a dispute, the Respondent had a right to resolve the dispute as it did.

Counsel also agree that the standard to be utilized by the Respondent in passing on the refusal of the Department of Justice to reinstate the Petitioner is "abuse of discretion." They also agree that the standard to be used by this Court in passing on the Respondent's decision is whether the decision is reasonable in view of the Respondent's findings of fact. The Court has no difficulty in concluding that the Respondent's decision that the

Department of Justice did not abuse its discretion is totally reasonable. The Respondent's reasoning is set forth in its excellent Opinion at pages 11 through 14. The Court finds the Respondent's reasoning highly persuasive and affirms its decision. Counsel for the Respondent is directed to submit an Order for Judgment and Judgment dismissing this action on its merits.

Dated at Waukesha, Wisconsin, this 18th day of June, 1987.

BY THE COURT:

  
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Hon. Willis J. Zick  
Circuit Judge

cc ✓ Asst. Atty. General David C. Rice  
Atty. Jeffrey A. Kremers