STATE OF WISCONSIN PERSONNEL COMMISSION

VERNON SEAY,

Complainant,

v.

Chancellor, UNIVERSITY OF WISCONSIN-MADISON, and Secretary, DEPARTMENT OF EMPLOYMENT RELATIONS,

Respondents.

Case No. 89-0082-PC-ER

INTERIM DECISION AND ORDER

This matter is before the Commission on the complainant's motion to amend his charge of retaliation and on the respondent's motion for summary judgment. The following facts appear to be undisputed.

FINDINGS OF FACT

1. By letter dated March 29, 1989 and received by the Personnel Commission on March 30, 1989, the complainant wrote:

> This letter will serve as notice of appeal in a matter involving a request for an audit of my position and classification.
>
> The audit was supposed to have started shortly after a request was made in the latter part of January 1989. However, after numerous telephones calls and letters I have not been contacted regarding this matter and I have no direct indication that any thing is being done by the University of Wisconsin Classified Personnel Office.
>
> * * *
>
> As can be seen by the enclosed letters, I have been working as a painter since on or about September 18, 1989. My normal work station is the Arlington Research Station (UW College of Agriculture and Life Sciences). During this time I have been improperly compensated for my work and I have been wrongly classified as a Facility Repair Worker.
>
> I will also use this letter to allege and file a complaint that my employer has retaliated against me and continues to retaliate against me because of my lawful disclosures regarding my employment and because of my known involvement in the classifi-

> cation audit proceedings. I ask that this matter be taken up also during the course of your investigation into the above. If a more formal charge of discrimination is nccessary, please so advise.

2. This letter was construed as an appeal of a constructive denial of a reclassification request. It was assigned Case No. 89-0032-PC, and the Commission identified DER and the UW as respondents and served copies of the appeal letter on representatives of the respondents. A prehearing conference was convened on April 27, 1989 regarding the matter. The conference report reflects the following:

> The prehearing conference was adjourned pending further proceedings with respect to the reclassification request and a possible meeting between management and appellant regarding the retaliation-type issues raised in appellant's March 29, 1989, appeal letter....
>
> It will be up to Mr. Kiesgen [union representative for Painters Union Local 802 who appeared with the complainant at the conference] to notify the Commission if he wishes to pursue the constructive denial claim He should file another appeal if he wishes to contest the final decision on the reclassification denial, or he should advise if this matter has been satisfactorily resolved.

3. The complainant filed a complaint form alleging whistleblower retaliation on July 12, 1989. The form included the following description.

> This charge will amend and supplement my initial charge which was sent to the Personnel Commission in a letter dated March 29, 1989.
>
> Beginning on or about January 23, 1989, my Employer became aware that I was involved in matters pertaining to an investigation of my job classification and appointment. Subsequent to that time and continuing to date my Employer has attempted to interfere with, restrain and coerce me in the exercise of my legal rights by threatening to penalize me and by penalizing me because I made lawful disclosures, continue to assist in making lawful disclosures, and because I filed a retaliation complaint. My Employer has engaged in a pattern of conduct towards me that is designed to curtail my involvement in classification audit proceedings and to keep these proceedings from reaching a logical conclusion.
>
> On or about June 13, 1989 the Employer, through its representatives David Prucha, Greg Jagodinski, Marsh Findley and Dale Schlough, made definite and certain its purpose to retaliate against me for exercising rights as a State employee by disclosing

> improper employment practices and a possible and probable violation of Chapter 230, Wis. Stats. On this date the Employer threatened to abolish my position and cause my layoff. This threat was in addition to previous threats of layoff connected with lawful protected activities.
>
> My employer has also retaliated against me over a period of time through the means of having my supervisor, Robert Vetter, alter my job duties, demote me, make my work assignments onerous, attempt to have me constructively terminated from my job classification, threaten me with complete termination if my audit request is successful, refuse to become involved when I received physical threats from a fellow employee, discuss my activities with other employees, and by other means. My potential for layoff was also brought to my attention by employer representative Ed Corcoran.

4. In a letter dated September 13, 1989 from a personnel specialist of the Department of Employment Relations, the complainant was notified that his request to have his position reclassified from Facilities Repair Worker 1 to Painter had been denied. On September 27, 1989, the complainant filed an appeal of this decision with the Commission. The appeal was assigned Case No. 89-0117-PC. In his letter of appeal, complainant advised the Commission that he "continue[d] to be represented" in his cases by Thomas W. Kiesgen, Organizer for Painters Union Local 802

5. A prehearing conference was convened for all three cases on November 15, 1989. The complainant was represented at the conference by Attorney Matthew R. Robbins. The complainant agreed to the dismissal of Case No. 89-0032-PC (constructive denial) and agreed to proceed to hearing on the reclassification appeal (Case No. 89-0117-PC) without waiting for the results of the investigation in Case No. 89-0082-PC-ER. The prehearing conference report specifies that the hearing in Case No. 89-0117-PC would "be a class 3 proceeding with jurisdiction pursuant to §230.44(1)(b), Wis. Stats."

6. The sole respondent in Case No. 89-0117-PC was DER.

7. After holding the hearing, at which the complainant was represented by legal counsel, the Commission concluded in a decision dated January 24, 1991, that the complainant was not entitled to reclassification or reallocation of his position from Facilities Repair Worker 1 to Painter and affirmed respondent DER's decision. The decision included the following language:

> The Commission's authority over this matter is limited to reviewing the respondent's classification decision and, as a general matter, does not extend to the other personnel actions which are described in the record. However, the evidence of record compels the Commission to offer some additional observations. Irrespective of the bottom line of this decision, the available evidence strongly suggests the UW manipulated the process in such a way as to hire someone with extensive painting skills as a FRW and to have that person perform duties in the Painter classification for a period of more than one year, thereby avoiding the expense of paying the employe at the rate to which a journeyman painter would have been entitled. Once the UW learned the Painters Union had become aware of the scheme, duties were immediately reassigned so that the employe began to perform duties consistent with his classification. The Commission does not condone the procedures followed here in an apparent effort to circumvent the civil service code. (footnote omitted)

8. Complainant subsequently waived the investigation of this complaint. After a prehearing conference was held on February 14, 1992, complainant retained his current counsel who then filed the proposed amendment which is the subject of this ruling. The allegations which serve as the basis for the proposed amendment are set forth in "Attachment A" to this decision, and were initially filed by the complainant as an attachment to his affidavit dated August 24, 1992.

9. At all times relevant to this proceeding, the appellant's position as a Facilities Repair Worker (FRW) was within a collective bargaining unit.

OPINION

Motion to Amend

The complainant seeks to amend his charge of discrimination "to reflect that it arises under Secs. 230.44(1)(b), 230.44(1)(c), and 230.44(1)(d), Stats., in addition to Sec. 230.80, Stats. et. seq." In an affidavit filed with the Commission on August 24, 1992, the complainant stated that from January 24, 1989 until the end of his employment with respondent UW on October 11, 1990, he was "subjected to physical threats, verbal abuse, a change in the nature of the work I was performing, unsafe and/or onerous working conditions, and other harassment by my superiors and co-workers... in retaliation for my attempt to seek a review of my job classification before the appropriate personnel staff at UW-Madison, DER, and ultimately this Commission." Respondents contend that

the Commission lacks jurisdiction over such additional claims. For the most part, the Commission agrees.[1]

Case No. 89-0117-PC was an appeal of the decision by DER not to reclassify the appellant's position to the Painter classification.[2] Jurisdiction over the appeal was based on §230.44(1)(b), Stats. This and the other relevant paragraphs of §230.44(1) read as follows:

> (1) APPEALABLE ACTIONS AND STEPS. Except as provided in par. (e), the following are actions appealable to the commission under s. 230.45(1)(a):
>
> * * *
>
> (b) *Decision made or delegated by secretary.* Appeal of a personnel decision under s. 230.09(2)(a) or (d) or 230.13 made by the secretary [of DER] or by an appointing authority under authority delegated by the secretary under s. 230.04(1m).

---

[1]The complainant references Alderden v. Wettengel, Pers. Bd Case No. 73-87, 3/22/76; aff'd by Dane County Circuit Court, Knoll v. State Pers. Board, 151-292, 9/20/77, for the general proposition that the Commission may assert jurisdiction over an appeal which is based upon an allegation that the employer has taken punitive actions against an employe for seeking reclassification. In that case, Mr. Alderden appealed a decision to reallocate his position from Maintenance Mechanic 2 to 3, effective April 29, 1973. A hearing was held on May 31, 1974. In a decision dated June 2, 1975, the Board ordered respondent to reallocate the appellant's position to the Craftsmen Electrician classification. The reallocation became effective on June 8, 1975, and one month later, the appellant asked the Board to clarify its previous decision and make his reallocation effective April 29, 1973. The Board agreed but provided the respondent an opportunity to file affidavits relating to the appellant's duties after the May 1974 hearing. Respondent then established that appellant's supervisor was very careful, after attending the May, 1974 hearing, *not* to assign any Electrician duties to the appellant. In its March, 1976 decision, the Board ordered that the appellant receive the higher Craftsmen Electrician pay rates from April of 1973 to June of 1975 because, "[i]n essence Appellant was penalized for exercising his right to appeal" when, as a consequence of the hearing before the Commission, the supervisor changed the work assignments he was making to the appellant. The Personnel Commission notes that the Alderden decision was issued by its predecessor agency, the applicable jurisdictional statutes were not identical to the statutory language being applied by the Commission, the parties in Alderden did not raise a jurisdictional issue and the jurisdictional result reached in that case has not been invoked by the Commission since that time.

[2]During the hearing on that matter, the complainant "clearly argued that even if the decision not to reclassify his position was [correct], the position should have been reallocated." (Decision and Order, page 6) The Commission's decision addressed both the reclassification and the reallocation claims.

> (c) *Demotion, layoff, suspension or discharge.* If an employe has permanent status in class, or an employe has served with the state or a county, or both, as an assistant district attorney for a continuous period of 12 months or more, the employe may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission, if the appeal alleges that the decision was not based on just cause.
>
> (d) *Illegal action or abuse of discretion.* A personnel action after certification which is related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion may be appealed to the commission.

The complainant first argues that "affirmative acts of retaliation related to a reclassification certainly must fall within" §230.44(1)(b), Stats. However, the plain language of this paragraph indicates that only "personnel decision[s] under s. 230.09(2)(a) or (d) or 230.13" fall within the scope of this provision. None of the complainant's allegations relate to §230.13, which permits the Secretary of DER to keep certain personnel records closed to the public. Section 230.09(2)(a) and (d), provide:

> (a) After consultation with the appointing authorities, the secretary shall allocate each position in the classified service to an appropriate class on the basis of its duties, authority, responsibilities or other factors recognized in the job evaluation process. The secretary may reclassify or reallocate positions on the same basis.
>
> * * *
>
> (d) If after review of a filled position the secretary reclassifies or reallocates the position, the secretary shall determine whether the incumbent shall be regraded or whether the position shall be opened to other applications.

These paragraphs allow the Commission to review classification and regrade decisions. As noted by the complainant, the Commission has also interpreted the classification decision to include establishing an effective date for a reclassification or reallocation. Popp v. DER, 88-0002-PC, 3/8/89 However, the language of paragraph (b) is not broad enough to include assignments of duties or interactions with supervisors and co-workers or related conduct attributable to an appointing authority so as to provide the Commission with jurisdiction over the allegations now being advanced by the complainant. To the extent the complainant is now seeking to relitigate the question of the correctness of the classification of his position in the context of reviewing the re-

spondent DER's reclassification denial, that issue was finally decided by the Commission in January of 1991. The complainant is barred from initiating a second appeal under §230.44(1)(b) of the same classification decision that was reviewed by the Commission in Case No. 89-0117-PC.

The complainant is also prevented from making use of §230.44(1)(c), because his position as a Facilities Repair Worker 1 was within a collective bargaining unit. Pursuant to §§111.93(3) and 230.34(1)(ar), the complainant's just cause review of disciplinary action taken against him must be with the procedure established by the terms of the collective bargaining agreement, and the Commission jurisdiction is superseded. Mugerauer v. DHSS, 87-0122-PC, 9/10/87 The Commission has previously ruled that an allegation of constructive discharge by an employe within a bargaining unit is outside of the Commission's jurisdiction.[3] Wolfe v. UW, 85-0049-PC, 9/26/85

Finally, there is, for the most part, no jurisdiction for complainant's allegations under §230.44(1)(d). One of the prerequisites for an appeal under that paragraph is that the personnel action must be "related to the hiring process." Here, the complainant began working as a FRW 1 at Arlington Research Station on August 29, 1987. In order to be considered timely filed as of the complainant's first contact with the Commission on March 29, 1989, any events described by the complainant would have occurred approximately 18 months after the date the complainant was hired.[4] As a general matter, personnel actions taken in March of 1989 or thereafter are not going to be "related the [1987] hiring process" for the complainant's Arlington position. A review of the specific conduct identified in complainant's allegations (Attachment A)

---

[3]Complainant cites §230.88(2)(b) in support of his contention that §111.93(3) is inapplicable to the present case because the respondents' retaliation was directed at the complainant's "rights under ch. 230, Stats." and "against the integrity of this Commission itself." The language of §230.88(2)(b) is expressly made applicable *only* to subchapter III of chapter 230. The Commission's jurisdiction under §230.44(1)(b) is found in subchapter II of chapter 230, so the jurisdictional limitations established in §§111.93(3) and 230.34(1)(ar) are unaffected by §230.88(2)(b). The Commission also notes that while §111.93(3) may be inapplicable to non-bargainable matters, nothing suggests that the mechanism for the review of those disciplinary actions otherwise made appealable to the Commission under §230.44(1)(c), is non-bargainable.

[4]In order to be timely filed under §230.44(1)(d), the March 29, 1989 letter of appeal would have to have been filed within 30 days of the effective date of the appealed decision or the date of notification, whichever is later. Section 230.44(3).

confirms that the conduct, commencing in March of 1989, relates to conditions of employment and individual work assignments, all of which are unrelated to the hiring process. The exception to this conclusion is an allegation by the complainant which relates to another hiring process:

> In August, 1990, I was interviewed for another position at UW Housing by Steve Patterson. Patterson told me he contacted Vetter for a reference, and that Vetter told him that I had legal problems and a conflict with some of my co-workers. Patterson told me he didn't hire me based on what Vetter said.

This allegation (which is premised on the alleged statement by Mr. Vetter, rather than on the non-selection decision attributable to Mr. Patterson) falls within the scope of §230.44(1)(d) to the extent that the complainant contends Mr. Vetter's alleged employment reference was either "illegal or an abuse of discretion." The Commission lacks subject matter jurisdiction under §230.44(1) over the complainant's other claims.

Motion for Summary Judgment

Respondents' motion for summary judgment relates to complainant's underlying claim of whistleblower retaliation. Respondent's initial contention is that the complainant failed to make a disclosure which would entitle him to protection from retaliation.

The complainant has identified three actions which he feels were protected by the whistleblower law; the March 29 and July 12 letters to the Personnel Commission and his "written disclosure of his Painter test score to his supervisor on December 12, 1988." In his August 24, 1992 affidavit, complainant described the disclosure of his test score as follows:

> I took the Painter's exam in October, 1988.
>
> On December 12, 1988, I called Sandy Nelson at DER. I informed her that I was going on vacation and wished to know my test score if it was available. Nelson informed me that my score (approximately a 78) was a passing grade sufficient to permit reclassification. I wrote my score down on a piece of paper, because it included a decimal which I did not think I would be able to remember off the top of my head.
>
> On the same day, December 12, 1988, I went to see Vetter with my note showing my passing test score. Vetter then stated, "I'm not sure we need a painter around here," or words to that effect.

Showing a supervisor a note containing an exam score cannot be said to constitute the disclosure of "information" as that term is defined in §230.80(5).

On the other hand, the two 1989 letters to the Personnel Commission constitute protected conduct under the whistleblower law. Complaints of whistleblower retaliation provide protection from retaliation to the person who filed them. In Iwanski v. DHSS, 88-0124. 0127-PC & 88-0143-PC-ER, 6/21/89, the Commission held:

> The definition of retaliatory action under §230.80(8)(a), Stats., includes a disciplinary action taken because the employe "filed a complaint under §230.85(1)." The latter subsection provides that an employe who believes retaliatory action has occurred can file a complaint with the Commission. The fact that it may ultimately be determined that the employe was unable to allege a necessary element in her case does not mean she loses the law's protection against retaliation for having filed the complaint.

The March 29th letter was processed by the Commission as an appeal (of a constructive denial of a reclassification request) rather than as a formal complaint of whistleblower retaliation and, as of the time it was filed, the complainant had not made a protected disclosure under §230.81. However, the letter clearly did include an allegation of retaliation for having made a lawful disclosure, these retaliation allegations were referenced in the report arising from the April 27th prehearing conference, and a copy of the March 29th letter was served on respondents UW and DER The Commission has previously permitted an appellant to perfect a complaint of discrimination where a letter appeal, relating to the same personnel transaction, specifically alleged illegal discrimination. Saviano v. DP, 79-PC-CS-335, 6/28/82; Laber v. UW, 79-293-PC, 8/6/81. The fact that the March 29th letter was not perfected as a complaint until the July 12th letter was filed does not mean that it cannot be considered a "complaint" for purposes of whistleblower protection. Clearly the July 12th letter, which was denominated and processed as a complaint, also entitles the complainant to protection from whistleblower retaliation.

The fact that the March 29th letter will be considered a complaint for purposes of protecting the complainant from retaliation means that the complainant may only pursue allegations, contained in the July 12th letter as well as the most recent amendment, which relate to conduct occurring after March

29th.[5] Because the March 29th letter was the complainant's first legally protected activity under the whistleblower law, summary judgment is appropriate as to any alleged retaliation occurring prior to the time respondents had notice of the March 29th letter.[6]

Respondent's second contention is that the complainant's disclosure of information was made with the hope of obtaining something of value, i.e. a higher paid position, so that whistleblower protection is unavailable. Pursuant to §230.83(1) and (2):

> (1) No appointing authority, agent of an appointing authority or supervisor may initiate or administer, or threaten to initiate or administer, any retaliatory action against an employe.
> (2) This section does not apply to an employe who discloses information if the employe knows or anticipates that the disclosure is likely to result in the receipt of anything of value for the employe or for the employe's immediate family, unless the employe discloses information in pursuit of any award offered by any governmental unit for information to improve government administration or operation.

The whistleblower law protects a variety of conduct. "Lawful disclosures" are protected as is certain testimony, certain assistance and complaints of retaliation. Pursuant to §230.80(8):

> "Retaliatory action" means a disciplinary action taken because of any of the following:
> (a) The employe lawfully disclosed information under s. 230.81 or filed a complaint under s. 230.85(1).
> (b) The employe testified or assisted or will testify or assist in any action or proceeding relating to the lawful disclosure of information under s. 230.81 by another employe.
> (c) The appointing authority, agent of an appointing authority or supervisor believes the employe engaged in any activity described in par (a) or (b).

---

[5]If the March 29th letter had actually been processed by the Commission as a whistleblower retaliation complaint, it would have been subject to dismissal because the complainant did not engage in any protected activity prior to March 29th which could have served as a basis for an allegation of retaliation. Because the March 29th letter was never assigned a case number as a whistleblower complaint, the July 12th letter can be considered a new complaint rather than merely as an amendment to the March 29th allegations. Compare, Iwanski, *supra*.

[6]There is no indication as to when the respondents first received a copy of the March 29th letter but the Commission did serve copies on respondents' representatives.

The restriction found in §230.83(2) references disclosures of information, but does not refer to the other forms of protected activity. While subsection (2) acts to exempt certain disclosures from protection against whistleblower retaliation, it does not have an effect on the protected status of a whistleblower complaint which is filed with the Personnel Commission. Because the protected activity of the complainant here was the filing of his March 29th and July 12th letters/complaints, the restriction found in §230.83(2), is inapplicable.

The respondent's final contention in support of its motion for summary judgment is that the complainant is estopped from relitigating matters which the Commission already addressed in its decision in Seay v. DER, 89-0117-PC, dated January 24, 1991. The respondents' summary of the January 24th decision is that the Commission "found that the Respondent's and DER's classification decision was not incorrect.... [and] that Mr. Seay's duties were reassigned so that the employee began to perform duties consistent with his position." The focus of the January 24th decision was on the complainant's reclassification efforts and the duties assigned to his position through the end of January of 1989. The Commission has restricted the complainant's whistleblower allegations to events occurring *after* his initial protected activity, i.e. his March 29th letter, which did not reach the Commission until March 30th. The complainant does not reference the reclassification decision in his list of alleged retaliatory conduct (Attachment A). There is no overlap between the matters litigated in Case No. 89-0117-PC and the allegations before the Commission in the present whistleblower retaliation case, so respondents' estoppel argument does not come into play.

ORDER

The complainant's motion to amend is granted in part and denied in part. The Commission will open a new case file for the complainant's allegation under §230.44(1)(d) relating to a reference provided by Mr. Vetter in August of 1990.

The respondents' motion for summary judgment is granted in part and denied in part. The Commission will contact the parties for the purpose of setting issues for the hearing already scheduled for January 26 and 27, 1993 and to discuss 1) consolidation with the new appeal and 2) whether DER should continue as a party in light of the issues for hearing.

Dated: November 19, 1992 STATE PERSONNEL COMMISSION

LAURIE R. MCCALLUM, Chairperson

KMS:kms
K:D:temp-12/92 Seay

DONALD R. MURPHY, Commissioner

GERALD F. HODDINOTT, Commissioner

In January, 1989, in response to my request to have my position reclassified from a Facilities Repair Worker to a Painter, Mr. Vetter removed me from painting duties. In January, 1989, I discussed my classification problems with Vetter, Barclay, and others that I worked with.

In March, 1989, Barclay threatened to "beat my ass", or words to that effect on several occasions. I informed Vetter of Barclay's threats. Vetter declined to intervene in any way.

In April, 1989, there was a change in work schedules. Vetter discussed these changes with other co-workers, but not with me.

In May, 1989, I was standing at Vetter's office door. Barclay attempted to trip me, and otherwise tried to provoke a fight. I objected to Barclay's actions. Mr. Vetter did not look up from his desk and ignored my objections.

In July, 1989, Barclay attempted to run me down with a truck. He then pulled the truck up to a gate. Barclay removed the gate and threw it down on the ground. Barclay then drove away. A few minutes later Vetter appeared and told me to pick up the gate.

In August, 1989, on at least two (2) occasions, there were pictures of Eugene Parks taped to my locker. I placed these pictures on Vetter's desk with a description of where I had found them. Vetter took no action.

In August, 1989, on at least three (3) occasions, there were newspaper advertisements stating "Painter wanted," or words to that effect, taped to the outside of my truck. I placed these ads on Vetter's desk with a description of where I had found them. Vetter took no action.

In August, 1989, on at least one (1) occasion, I found red paint had been poured into my lunch box. Because of this harassment and the other harassment described above, I was told to take eight (8) weeks off by my doctor.

On December 4, 1989, Vetter assigned me to dig a post hole alone. There was 11" of frost in the ground, and the temperature was -5 degrees with the wind chill. I was the only employee asssigned to work outside.

On December 7, 1989, Vetter assigned me a shelving project. Based on my experience in carpentry, I knew from the specifications Vetter gave me that the project could not be accomplished. When I told Vetter this, he just shrugged and smiled.

In January, 1990, my co-workers attended a trade show in Milwaukee. I was not invited. When I asked Vetter if this was an oversight he said, "No, it was my doing."

On January 12, 1990, I found that manure had been placed around the side of my coffee cup.

On February 10, 1990, I was assigned to use a particular truck. Someone had locked the keys inside the truck.

On February 16, 1990, I was using a drill in the presence of Barclay and Vetter. Barclay knew I was using the drill, but nonetheless took it away so I could no longer use it. Vetter watched this occur and simply walked away.

On May 17, 1990, I was driving my station wagon on Plaum Road. Barclay and Vetter were in another vehicle, with Barclay driving. Barclay cut me off sharply in traffic. I was forced to drive up on to the curb to avoid a crash. When I questioned Vetter the next day he shrugged, smiled, and said, "I wasn't driving."

In May, 1990, Barclay would not allow me to park in the garage with other trucks. I informed Vetter. Vetter smiled and took no further action.

On June 25, 1990, Barclay stated that he was going to "squeeze my head until shit comes out."

In July and August, 1990, Vetter stopped giving me my check with the other men. I asked Steward Roger Quam for assistance. Quam had to go to Vetter's office specifically to ask for my check.

In August, 1990, I was interviewed for another position at UW Housing by Steve Patterson. Patterson told me he contacted Vetter for a reference, and that Vetter told him that I had legal problems and a conflict with some of my co-workers. Patterson told me he didn't hire me based on what Vetter said.

On October 8, 1990, I found that someone had destroyed my hat. I told Mike Pearson, Chief Steward for Local 171, AFSCME. Later that week Vetter brought me a new hat.

On October 11, 1990, was my last day of work at the Agricultural Research Station. I observed that Vetter had drawn an 'X' on his calendar for each day between the time I gave notice of leaving and the time I left. Vetter had drawn a smiling fact on his calendar on the first day after I left.

Throughout the period January, 1989 to October, 1990, I had continuing problems with both work assignments and transportation.

Regarding work assignments, Vetter often gave me no work to do despite numerous requests. When work was assigned, I was always assigned to do it alone. This was not the practice prior to the time I requested reclassification. These work assignment difficulties are in addition to the specific onerous or impossible work assignments described above. (See e.g. December 4, 1989 post-digging assignment; December 7, 1989 shelving assignment).

Regarding transportation, I lost the use of a truck which had regularly been assigned to me prior to my request for reclassification. Subsequent to my request for reclassification, the truck was assigned to Barclay and I had continual difficulty obtaining the use of a vehicle. On a number occasions I was unable to do my work in outlying areas because I had no vehicle.