STATE OF WISCONSIN PERSONNEL COMMISSION

KAREN LARSEN,

Appellant/Complainant,

v.

Secretary, DEPARTMENT OF CORRECTIONS,

Respondent.

Case Nos. 90-0374-PC
91-0063-PC-ER

DECISION
AND
ORDER

NATURE OF THE CASE

This matter involves an appeal pursuant to §230.44(1)(c), Stats., and a complaint of Fair Employment Act (FEA) retaliation pursuant to §§111.322(3), 111 375(2), and 230.45(1)(b), Stats., with respect to a one-day suspension without pay. These cases were consolidated for hearing purposes.

FINDINGS OF FACT

1. During the relevant time period, appeallant was employed in the classified civil service at the maximum security Waupun Correctional Institution (WCI) in a position classified as an Officer 6 (Captain) with permanent status in class. At the time of the incident in question, she had been a captain for five years.

2. Sometime late in June or early in July, 1990, appellant requested permission of her supervisor, Major Jeffrey C. Smith, to take eight hours of leave (holiday) time on Sunday, July 15, 1990, a day for which she was scheduled to work. Major Smith denied this request on the ground that there was no relief available

3. On Friday evening, July 13, 1990, appellant and Capt. Damon Feldmann discussed the upcoming supervisors' schedule in the supervisors' office at WCI. They noticed that Captain Layman, who had been on vacation and was due to return to work on July 15th, had been scheduled to work three double shifts in the four-day period of July 15th through 18th. Appellant

pointed out that all three captains could benefit by certain shift trades among them during the period July 15th - 19th that would have the effect of giving appellant a day off on July 15th and relieving Capt. Layman from working the aforementioned double shifts. Capt. Feldmann concurred in this approach. Appellant contacted Capt. Layman at his home the next day (July 14th) and he agreed to the trades, which then were effectuated. He worked for appellant on July 15th. No net compensable overtime was generated as a result of these trades.

4. Neither appellant nor Capts. Feldmann or Layman sought or obtained approval for the trades from Major Smith or other higher authority. Because it was a weekend when the arrangements were made, there were no higher-ranking officers on duty at WCI, and authorization could only have been sought by trying to have contacted a supervisor at home. Major Smith would have approved the trade if he had been asked in advance.

5. After Major Smith learned of the trades, he issued an "Employe Disciplinary Report" on appellant dated July 24, 1990 (Respondent's Exhibit 17), which accused appellant of "insubordination/disobedience" by not reporting for duty as scheduled on July 15th after having her request for that day off denied, and having arranged schedule changes without authorization. Attached was a copy of a memo authored by Acting Associate Warden-Security Fromolz dated February 2, 1990, concerning the necessity for supervisors to work their posted hours unless prior approval had been received for a change (Respondent's Exhibit 18).

6. An investigatory/predisciplinary hearing was conducted on July 26, 1990, by Major Smith and Glen Weeks (WCI personnel manager). Appellant attended with Capt. Jerome Elliott as her representative. This hearing is summarized accurately in a July 26, 1990, memo from Weeks to Associate Warden-Security Lynn S. Oestreich (Respondent's Exhibit 16).

7. Subsequently, appellant was suspended for one day without pay (effective September 26, 1990) by Warden Gary R. McCaughtry, as reflected in a letter to her dated August 30, 1990 (Respondent's Exhibit 15), based on the allegation that appellant "initiated schedule changes which were not authorized and did not report for duty as scheduled.") Respondent imposed a suspension rather than a reprimand because this was appellant's "second

violation under DOC Disciplinary Guidelines, Category B - Misconduct," and she had received a reprimand for the first violation, dated July 13, 1990.

8. Respondent's work rules (Respondent's Exhibit 28) include the proviso that: "Insubordination/Disobedience includes, but is not limited to, the failure or refusal to carry out a clearly stated verbal or written order" These rules also provide that "normally" a first Category B violation will be punished by a written reprimand and the second by a one day suspension without pay

9. Neither of the other parties involved in the trades (Capts. Feldmann and Layman) were written up (i.e., made the subjects of employe disciplinary reports) or disciplined by respondent. Respondent's rationale for this that was enunciated at the July 26, 1990, "investigatory/predisciplinary hearing" was that "at this point there was no evidence that they had violated any work rule." (Respondent's Exhibit 16). At a later point, respondent's rationale was that the other captains (Feldmann and Layman) were less culpable because it was appellant who had initiated the trades.

10. In making his decision, Warden McCaughtry consulted with Major Smith, Associate Warden-Security Oestreich, Associate Warden-Treatment Ana M. Secchi, and the respondent's human resource office in Madison. Associate Warden Oestreich's role in this process was limited to conducting a supplemental investigation to determine who had initiated the trade.

11. A memo dated February 2, 1990, to all supervisors (Respondent's Exhibit 18), from then Acting Associate Warden Ray Fromolz[1] contained the following:

> Effective immediately, Security Supervisors will work the hours posted on the schedule.
>
> All changes or deviations from the schedule will require approval of the Associate Warden-Security or the Administrative Captain.
>
> All overtime will also require pre-approval except in emergency situations.

Copies of this memo were sent to all supervisory staff and posted in the supervisors' office. Appellant either received or read a copy of the Fromolz memo,

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[1] Lynn Oestreich was appointed to this position on a permanent basis effective March 10, 1990.

and understood that it meant that prior approval would be required for shift trades by captains.

12. Prior to the promulgation of this February 2, 1990, memo, the institutional policy with respect to the necessity for prior supervisory approval of shift trades worked out between or among captains can be characterized as nebulous. In general terms, the captains believed that no prior authorization was needed for trades that did not create overtime, although as a practical matter they usually consulted in some way with their supervisors in advance. Supervisors believed that prior approval was required. It was very unusual for management to disapprove of a trade. The Fromolz memo referred to in Finding #11 was promulgated to attempt to clear up the situation, after Fromolz had discussed the situation with Warden McCaughtry.

13. There were a number of older supervisors' memos extant at WCI, at least one going back to 1963, some of which had been issued by supervisors no longer at WCI. Supervisors had to use discretion with respect to these memos, because some of them were obviously obsolete notwithstanding they had never been formally rescinded.

14. Subsequent to the promulgation of the Fromolz memo, and after Major Smith began in his position in March, 1990, there were no situations where Major Smith was not consulted in advance with respect to captains' shift trades. This included a trade between appellant and Captain Layman that occurred in late April or early May, 1990, with respect to which appellant consulted with Major Smith in advance.

15. On July 20, 1990, Major Smith promulgated a memo dated July 20, 1990, to "All Security Supervisors" (Appellant's Exhibit 1) which stated: "Effective immediately, no trades of work hours between security supervisors can be accomplished without my prior authorization."

16. Appellant filed a complaint of sex discrimination with respect to nonpromotion to two vacancies at WCI (Security Director 1 and 2) with this Commission in June, 1990.

17. Appellant mentioned this complaint to Associate Warden-Security Oestreich on July 4, 1990

18. No one else who had any involvement in the decision-making process with respect to the suspension was aware of this complaint at the time the decision to suspend the appellant was made.

19. Shortly after August 6, 1990, appellant filed a letter dated August 6, 1990, with this Commission which attempted to appeal the July 13, 1990, reprimand. Included in that letter was an allegation that "this whole thing was contrived or set-up by Mr. Oestreich in retaliation of my filing the discrimination suit."

20. No one who was involved in the decision-making process with respect to the suspension was aware of the August 6, 1990, letter, and the allegation against Associate Warden-Security Oestreich at the time the decision was made.

21. The decision to impose the suspension was not motivated or influenced by an intent to retaliate against appellant because of the aforementioned complaint or letter

CONCLUSIONS OF LAW

1. These matters are properly before the Commission pursuant to §§230.45(1)(b), Stats. (91-0063-PC-ER) and 230.44(1)(c), Stats. (90-0374-PC).

2 Appellant has the burden of proof with respect to No. 91-0063-PC-ER. Respondent has the burden of proof with respect to No. 90-0374-PC.

3. Appellant having failed to sustain her burden of proof with respect to No. 91-0063-PC-ER, it is concluded that respondent did not retaliate against her in violation of the FEA in connection with the imposition of a one day suspension without pay effective September 26, 1990.

4. Respondent has sustained its burden in part with respect to No. 90-0374-PC and it is concluded that there was just cause for the imposition of discipline, but it is also concluded that the one day suspension without pay actually imposed was excessive and should be modified to a written reprimand.

OPINION

The Commission first will address the civil service appeal under §230.44(1)(c), Stats. The initial question with respect to this appeal is whether respondent has sustained its burden of proving that the charged misconduct actually occurred.

Appellant was charged with: "insubordination/disobedience on July 15, 1990, in that [she] initiated schedule changes which were not authorized." (Respondent's Exhibit 15). It is undisputed that prior approval was neither

sought nor obtained prior to the schedule trade which occurred. Before appellant can be found to have been "insubordinate/disobedient" as charged, respondent must establish first, that there was in effect a policy which appellant violated, second, that appellant either had actual knowledge of the policy or should have had knowledge under an objective test, and, third, that appellant either knew, or should have known under an objective test, that the policy prohibited trades. There was a good deal of conflicting testimony on all of these issues.

Captain Elliott testified that institution policy prior to Major Smith's July 20, 1990, memo (Appellant's Exhibit 1) had been to permit trades without prior authorization as long as they did not incur overtime. However, he also testified that he had only been involved in one or two trades in the last 14 years. While Captain Bornick offered the same testimony regarding the policy, he also testified that he always had spoken to his supervisor in advance about each trade "as a courtesy," and that he had never attempted to make a trade without doing so. Captain Feldmann offered the same testimony about the institutional policy; he also testified he had asked Major Smith for his prior approval of a trade in April, 1990 as a matter of courtesy. Even appellant, who also denied the existence of a policy requiring previous authorization, obtained prior approval from Major Smith for her April, 1990, trade. The higher-ranking supervisors testified that they understood the policy to require prior approval of trades, and were not aware of any trades effectuated without their prior approval.

Now, in the absence of a relatively explicit system for obtaining supervisory approval, such as the routine use of a form which the supervisor checks "yes" or "no," it may be a grey area whether a conversation between a supervisor and a subordinate would be considered as obtaining authorization for something or as informing the supervisor in advance as a "courtesy." It is likely that one's perception of such a transaction would be colored by whether one is viewing it as the supervisor or the subordinate. In this context it is not surprising that the supervisors and the subordinates had differing characterizations of what had been, until 1990, the institution's unwritten policy in this area. That there was a lack of a clear understanding of the institution's policy is underscored by the fact that in February, 1990, then acting Associate Warden-Security Fromolz told the Warden that "it seems to me there's a lack of

understanding among the supervisory staff, and I would like to clarify that by this memorandum [i.e., Respondent's Exhibit 18]" (testimony of Warden McCaughtry). Based on this evidence, it is concluded that at least after the February 2, 1990, Fromolz memo there was an institutional policy prohibiting shift trades without prior approval, and respondent has satisfied its burden with respect to the first element. The next question is whether appellant knew or should have known of the memo.

With respect to the question of whether appellant actually had been aware of the Fromolz memo prior to July 15, 1990, there is a preponderance of evidence that she had. Appellant's denial was supported to some extent by the testimony of Capts. Bornick and Feldmann. Capt. Bornick testified that: "I don't recall seeing this [memo] before. A lot of paperwork comes across my desk. I'm not saying it's not in effect, but I don't remember seeing this." Capt. Feldmann testified that he had seen the memo at some point but couldn't say when. There are a number of factors which must be weighed against this evidence.

1. The memo was addressed to "All Security Supervisors," and this carries a presumption that it was so disseminated.

2. Warden McCaughtry testified that he had made sure that the memo was sent to everyone concerned and was posted in the supervisors' office.

3. Major Smith testified that he had attached a copy of the memo to the July 24, 1990, employe disciplinary report (Respondent's Exhibit 17) which was given to appellant prior to her July 26, 1990, predisciplinary hearing. However, at that meeting, neither she nor her representative denied that she had seen a copy of the memo, see Respondent's Exhibit 16.

4. Appellant's credibility was debilitated by inconsistencies in her testimony given at two depositions. At a January 29, 1991, deposition she first testified that she couldn't recall what she had done on July 15, 1990, and then finally conceded that she "probably" went to a horse race on July 15, 1990, but couldn't recall which one without looking at a schedule. At a June 6, 1991, deposition she testified that she had gone to a horse race at Wautoma, and that she had done nothing to refresh her recollection in the interim. She attempted to rehabilitate her credibility by contending that at the first deposition: "I think I told you that it was irrelevant where I went," and that: "when

I came back for the second deposition, I answered your question," but this contention certainly is not supported by the relevant portions of the depositions.

Therefore, the Commission determines that respondent has satisfied its burden of proof on the question of whether appellant was aware of the Fromolz memo at or about the time of its promulgation.

The next question is whether appellant interpreted or should have interpreted the Fromolz memo as prohibiting unauthorized shift trades. This memo is addressed to "All Security Supervisors" and reads as follows:

> Subject: Work Schedules
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> Effective immediately, Security Supervisors will work the hours posted on the schedule.
>
> All changes or deviations from the schedule will require approval of the Associate Warden-Security or the Administrative Captain.
>
> All overtime will also require pre-approval except in emergency situations.

Captain Elliott testified that while in his opinion the memo could be construed as a policy on shift trades, he had not construed it that way, but rather as concerning beginning and ending hours of work -- e.g., if an employe were scheduled to work 7:00 - 3:00, he or she was supposed to work those hours instead of 8:00 - 4:00. In the Commission's view, the memo can be reasonably interpreted as applying to the times for starting and finishing a shift, to trading shifts, or to both subjects. However, on the basis of appellant's testimony, it is reasonably clear that she understood the memo to refer to shift trades. She admitted on adverse examination that the trade she carried out was inconsistent with the Fromolz memo:

> Q And the trade that you carried out ... was not consistent with the Fromolz memo, you would agree with me, wouldn't you?
>
> A: People had been trading all along, it wasn't followed, otherwise, July 20th, Smith would not have put out a memo, had it been followed.
>
> Q ... was the trade you carried out ... consistent with the Fromolz memo or was it not consistent?

A: No.

Q Your testimony is that it was not consistent?

A: Correct.

One can infer from this admission that appellant interpreted the memo as applying to trades. There is nothing to suggest that this has not been her interpretation ever since the memo was promulgated. Therefore, even if the directive were considered to be ambiguous, appellant's perception of it was such as to provide the third element for a finding of insubordination or disobedience. The Commission also will address this element under an objective standard.[2]

There are three reasons why the Fromolz memo could be interpreted as inapplicable to appellant's conduct. First, as Capt. Elliott testified, it was susceptible to interpretation as applying either to shift trades or starting and quitting times. On its face, it seems the memo applies to both matters. A reasonably prudent employe similarly situated to appellant would be another experienced captain, not, for example, a probationary Officer 2. Since the memo or its face appears to apply to trades, there is no reason to believe a reasonably prudent captain similarly situated to appellant would interpret it as not applying to trades. This conclusion is supported by the testimony of both appellant, who admitted her conduct was in violation of the memo, and Capt. Elliott, who acknowledged the memo could be interpreted in this manner. Moving beyond the plain language of the memo, management condonation of unauthorized trades could suggest a different interpretation would be warranted. However, despite a lot of conclusory testimony from appellant's witnesses, appellant's evidence failed to identify a specific unauthorized trade subsequent to the Fromolz memo, no less an unauthorized trade condoned by management. Rather, respondent identified a number of trades in this time period (including one involving appellant) where prior authorizations were

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[2] While it is not necessary to address this facet of this issue in light of the preceding conclusion under a subjective test, the Commission does so because this decision initially is being promulgated as a proposed decision under §227.46, Stats.

obtained,[3] and Major Smith testified he was not aware of any unauthorized trades.

The second problem with the memo is that Acting Associate Warden Fromolz was replaced in May, 1990, and there was uncontradicted testimony by Capt. Feldmann that there were a number of obviously obsolete memos extant and that supervisors have to use discretion in determining which ones should still be followed. While respondent's case obviously would have been stronger if it could have pointed to a system of standing orders, institution procedure manual, etc., the facts remain that it was of relatively recent vintage, it had not been formally superseded, and there was no evidence that either Smith or Oestreich in practice had been taking a different approach to the policy.

The third factor weighing against respondent's interpretation of this memo is that Major Smith's July 20, 1990, memo (Appellant's Exhibit 1) states: "Effective immediately, no trades of work hours between security supervisors can be accomplished without my prior authorization." (emphasis added). This language supports the contention that the July 20th memo announced a new policy rather than reinforced an existing policy. On the other hand, if the memo is viewed as a means of eliminating any doubt or question either about the policy, or about whether it was being enforced, the underscored language can be viewed as a way of saying there would be no delay or "grace period" in connection with management's reiteration of the policy.

In conclusion on this issue, in light of the conflicting evidence and considering that respondent has the burden of proof, the Commission is constrained to conclude that, although it is a close question, respondent has not sustained its burden of establishing under an objective test that appellant should have known that WCI prohibited unauthorized trades of the kind that occurred on July 15, 1990.

Inasmuch as the Commission finds that when appellant arranged and effectuated the July 15, 1990, trade without prior authorization, she was aware of the Fromolz memo and knew her actions were in violation of the memo, there was just cause for the imposition of discipline. The Commission does not agree with appellant's contention in her posthearing brief that because the "trade did not impair the efficiency of the Institution; therefore, participation

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[3] As discussed above, these were characterized by the captains as "courtesy" notifications to their superiors.

in the trade did not constitute just cause for a disciplinary action." p. 9. Just cause exists when: "'some deficiency has been demonstrated which can reasonably be said to have a tendency to impair his performance of the duties of his position or the efficiency of the group with which he works.'" (emphasis added) Safransky v. Personnel Board, 62 Wis. 2d 464, 474, 215 N.W. 2d 379 (1974), citing State ex rel Gudlin v. Civil Service Commn., 27 Wis. 2d 77, 87, 133 N.W. 2d 799 (1965). It is clear that disobedience or insubordination of this nature by a supervisor in a maximum security institution meets this test regardless of whether any harm actually resulted from what occurred.

The next question is whether the discipline imposed was excessive. In Barden v. UW-System, No. 82-237-PC (6/9/83), the Commission held:

> In considering the severity of the discipline imposed, the Commission must consider, at a minimum, the weight or enormity of the employe's offense or dereliction, including the degree to which, under the Safransky test, it did or could reasonably be said to tend to impair the employer's operation, and the employe's prior record.

In addition, the employe's prior disciplinary record and the discipline imposed in other cases can be considered, although frequently the different circumstances involved in other disciplinary matters make it difficult to make comparisons. Showsh v. DATCP, 87-0201-PC (11/28/88); reversed other grounds, Showsh v. Personnel Commission, Brown Co. Cir. Ct. 89CV445 (6/29/90); Showsh v. Wis. Pers. Commn., Ct. App. 90-1985 (4/2/91). In the instant case, a comparison to another transaction is readily at hand, because the other officer involved in the July 15th trade (Capt. Layman) was involved in exactly the same violation (effectuating a trade without prior approval), as appellant. Capt. Layman was not disciplined at all for his involvement in the matter, as compared to appellant's one day suspension. Respondent's ultimate rationale for not taking any disciplinary action against Capt. Layman was that is was appellant who had initiated the trade.[4] However, the record does not reflect that appellant was in a position to, or did, apply any pressure on Capt Layman

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[4] The record of the July 26, 1990, predisciplinary hearing reflects management at that time stated that the other captains had not been written up because "at this point there was no evidence that they had violated any work rule." (Respondent's Exhibit 16). However, at that point management must also have known that Capt. Layman had engaged in an unauthorized trade.

to trade shifts, or that management had any reason to think she did. The record reflects that she called Capt. Layman the evening of July 14, 1990, and offered him a trade that was mutually beneficial, and he accepted. It is difficult to understand how he was not equally culpable for not having sought to obtain authorization for the trade.

Other circumstances surrounding the trade tend to show the suspension was excessive. Appellant first discussed the trade with Capt. Feldmann on Friday night (July 13, 1990). Capt. Layman, who was on vacation, could not be reached until Saturday night. In order to have sought what would have been a routine approval for a routine transaction, appellant would have had to have tried to call Major Smith at home. Also, there was no problem of shift coverage or overtime caused by the trades. Under these circumstances, the weight of the offense must be considered relatively minor. While this was appellant's second "class B" offense, and under respondent's disciplinary guidelines this called for a one day suspension, it must be kept in mind that these are only internal departmental guidelines. If these guidelines had been followed in Capt. Layman's case, he would have received a written reprimand. Respondent chose not to pursue that course of action against him because of the circumstances surrounding the trade.

In consideration of all these factors (severity of the offense, prior disciplinary record, and comparison to the identical offense committed by Capt. Layman), it must be concluded that a one day suspersion for appellant is excessive. The only significant distinction between appellant's situation and Capt. Layman's is appellant's disciplinary record. Under all the circumstances, this cannot justify a two-level distinction (suspension versus no discipline) in the discipline given to appellant and Capt. Layman. Therefore, the discipline will be modified to a written reprimand.

Turning to the retaliation complaint, here complainant has the burden of proof. Complainant failed to establish a prima facie case because she failed to establish that Warden McCaughtry, who made the decision to impose the discipline, was aware of her protected activity as of the time he promulgated the notice of discipline. Complainant in her posthearing brief argues:

> Security Director Oestreich learned of Larsen's discrimination complaint on July 4, 1990. On August 6, 1990, Larsen submitted a letter to the Personnel Commission in which she charged the Respondent with

> retaliation for the first reprimand. Warden McCaughtry did not impose a suspension on Larsen until August 30, 1990. Even if Warden McCaughtry was not informed of Larsen's initial June 13, 1990 discrimination complaint or her subsequent retaliation charge (which is doubtful), certainly the Department of Correction employees McCaughtry consulted knew of the complaint and the charges. McCaughtry testified that he talked with employees in both the Waupun Correctional Institution Personnel Department and with labor relations specialists at Department of Corrections in Madison. Surely, someone who was involved in the decision to suspend Larsen was also aware of her discrimination complaint and her August 6 retaliation charge.

There is no evidence in the record that the Warden was aware of complainant's Fair Employment Act (FEA) activities prior to the time he promulgated the notice of discipline. There is no evidence that anyone the Warden consulted other than Associate Warden-Security Oestreich knew of complainant's FEA activities. There is no evidence that Associate Warden-Security Oestreich made any recommendation with respect to discipline or played any other role with respect to the disciplinary transaction other than to conduct a supplemental investigation to determine who had "initiated" the trade, which complainant essentially admitted. On the basis of this record, the Commission cannot find either that the discipline was imposed by someone who had knowledge of complainant's FEA activities or that the disciplinary decision was influenced by anyone who had such knowledge.

In conclusion, in the Commission's opinion, it is unfortunate from a number of perspectives that this matter played out the way it did. On one hand, the Commission is of the opinion that appellant was aware of the Fromolz memo and knew that the July 15, 1990, trade was inconsistent with that memo, but believed that the memo was not being enforced so proceeded to make the trade anyway. Her point of view is reflected in her testimony that: "[p]eople had been trading all along; it wasn't followed." Unfortunately for appellant, she was incorrect in her perception. While it may well have appeared to her that the policy was not being enforced, there was no evidence either of any violations of the policy after February 2, 1990, or that management had condoned any such violations.[5] On the other hand, it appears that Major Smith's principal motivation in writing an employe disciplinary report on appellant

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[5] As discussed above, this somewhat anomalous situation probably is attributable at least to some extent to so-called "courtesy" notifications of trades.

was the perception that she had countermanded his denial of her request for leave on July 15th by not reporting for work on that date. However, a shift trade is a different type of personnel transaction than taking leave, so simply making the trade on the date in question could not be considered insubordinate with respect to Major Smith's earlier denial of leave.[6] Therefore, while respondent established a basis under Safransky for taking some disciplinary action against appellant, it appears unlikely that this matter would have involved formal discipline in the absence of the denial of the earlier leave request and management's initial view of the trade as an act of insubordination in this regard.

ORDER

1. 91-0063-PC-ER: This complaint of discrimination is dismissed.

2. 90-0374-PC: The disciplinary action is modified to a written reprimand and this matter is remanded to respondent for action in accordance with this decision.

Dated: May 14, 1992 STATE PERSONNEL COMMISSION

LAURIE R. McCALLUM, Chairperson

AJT:rcr

DONALD R. MURPHY, Commissioner

GERALD F. HODDINOTT, Commissioner

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[6] This conclusion is reinforced by the fact that respondent did not attempt to pursue this point as part of the formal disciplinary process.

Parties:

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NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

Petition for Rehearing. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats , for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation