

FILED

JUN 13 1991

**CLERK OF COURT OF APPEALS
OF WISCONSIN**

**COURT OF APPEALS
DECISION
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NOTICE

June 13, 1991

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals pursuant to s. 808.10 within 30 days hereof, pursuant to Rule 809.62(1).

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 90-1126

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT IV

BRUCE FINN,

Petitioner-Appellant,

v.

WISCONSIN PERSONNEL COMMISSION,

Respondent.

RECEIVED

JUN 14 1991

Personnel
Commission

APPEAL from a judgment of the circuit court for Dane county:

P. CHARLES JONES, Judge. *Affirmed.*

Before Eich, C.J., Dykman and Sundby, JJ.

PER CURIAM. Bruce Finn appeals from a judgment affirming an order of the Wisconsin Personnel Commission ("Commission") and dismissing his

petition for review under ch. 227, Stats. The issue is whether Finn is entitled to hazardous pay under sec. 230.36, Stats., for back injuries sustained while on assignment. We conclude that the trial court's decision, based on the Commission's findings and its statutory interpretation that Finn's injuries were not sustained "[i]n the process of ... investigating any ... violation of the law" as required by sec. 230.36(3)(b)1, Stats., expresses the law. Therefore, we affirm and adopt the trial court's opinion.

Finn is a special agent in the Narcotics and Dangerous Drugs Division of the Department of Justice. He contends he is entitled to hazardous pay under sec. 230.36(3)(b)1, Stats. Section 230.36, Stats., provides in part:

(1) If a ... special criminal investigation agent employed by the department of justice, ... suffers injury while in the performance of his or her duties, as defined in subs. (2) and (3) ... the employe shall continue to be fully paid by the employing agency upon the same basis as paid prior to the injury, with no reduction in sick leave credits, compensatory time for overtime accumulations or vacation and no reduction in the rate of earning sick leave credit or vacation....

(2) "Injury" as used in this section is physical harm to an employe caused by accident or disease.

(3) As used in this section, "performance of duties" means duties performed in line of duty by:

....

(b) A ... special criminal investigation agent employed by the department of justice at all times while:

1. In the process of making an arrest or investigating any violation or suspected violation of the law or the quelling of a riot or any other violence

Finn contends he is entitled to hazardous pay because he was on assignment when injured. The Commission found that he was not performing hazardous duty as defined by sec. 230.36, Stats., because he was not investigating a violation or suspected violation of the law when injured, and denied benefits. The trial court concluded that the Commission's interpretation and application of the statute was reasonable and that the Commission acted within its powers.

We review the Commission's decision *de novo*. *Drivers Local No. 695 v. LIRC*, 154 Wis.2d 75, 82-84, 452 N.W.2d 368, 371-72 (1990). However, we conclude that the trial court's opinion correctly states the law. We therefore adopt the opinion. *See Wis. Ct. App. IOP VI(5)(a)* (June 8, 1990) (court of appeals may adopt trial court opinion).

By the Court.--Judgment affirmed.

This opinion will not be published. Rule 809.23(1)(b)5, Stats.