

DAVID V. CHRISTENSEN,

Appellant,

v.

Secretary, DEPARTMENT OF  
CORRECTIONS, and Secretary,  
DEPARTMENT OF EMPLOYMENT  
RELATIONS,

Respondents.

Case No. 91-210-PC

DECISION  
AND  
ORDER

This matter is before the Commission as an appeal from a classification decision. During a prehearing conference held on December 3, 1991, the parties agreed to an issue for hearing. However, at hearing the appellant withdrew one of the alternative classifications so that the issue now before the Commission reads as follows:

Whether the respondents' decision not to reclassify or reallocate the appellant's position from the Administrative Assistant 3-Confidential classification was correct. If not, whether the appellant's position is more appropriately classified at the Administrative Assistant 4-Confidential or Administrative Assistant 5-Confidential level.

#### FINDINGS OF FACT

1. At all times relevant to this appeal, the appellant has been employed by the Department of Corrections (DOC) at the Dodge Correctional Institute (DCI).

2. The appellant's duties are accurately set forth in his position description dated July of 1991. The position description reads, in relevant part:

35% A. Recommending disposition of residents' complaints on institution rules, policies, practices and individual staff actions.

A1. Review resident complaints to establish priorities and to assign appropriate file number.

A2. Interview resident and/or staff involved to obtain full details about the nature of the issues involved in the complaint.

- A3. Obtain additional information, if necessary (e.g., documents, statements, testimonies, or records), to prepare for the investigation.
- A4. Mediate between the parties to the complaint to resolve misunderstandings or disputed issues, if possible.
- A5. Contact resident complaint investigators in other correctional institutions to obtain information related to precedent practices or methods used in solving similar complaints.
- A6. Review records and information collected to prepare written recommendation of disposition or alternative solutions of complaint.
- A7. Submit written report of resident complaint investigation and recommendation of disposition to the warden for his review and decision on recommended course of action.
- A8. Meet with warden to discuss the recommended action and answer questions s/he may have.

30% B. Process all civil action litigation.

- B1. Accept service of civil action litigation.
- B2. Initiate notification to defendants, Department Legal Counsel and Attorney General's Office and log.
- B3. Review litigation to determine course of action.
- B4. Coordinate information gathering with DCI staff, other institutions, Central Office, and Attorney General's Office.
- B5. Review and research records, Administrative Codes, Internal Management Procedures, etc. for use in response.
- B6. Prepare response to numerous types of litigation.
- B7. Insure time limits for submitting response are met.
- B8. Coordinate contacts (personal and phone) between staff and Attorney General's Office.
- B9. Ensure institution compliance with court orders.
- B10. Maintain up-to-date and accurate records pertaining to all litigation.

20% C. Administrative duties as directed.

- C1. Conduct interviews and investigations at direction of warden.
- C2. Act as resource person in development of policies and procedures.
- C3. Act as resource person to assist others in understanding, interpretation and familiarization of State Statutes, Administrative Codes, Internal Management Procedures, and policies and procedures.
- C4. Be involved in public relations.

- C5. Prepare Suggested Responses for DAI and DOC upon request.
  - C6. Serve as member of institution Compensation Committee, Personal Property Committee and Canteen Committee and serve as institution representative on other DAI committees as directed.
  - C7. Orient staff to the complaint system.
- 8% D. Act as Assistant Accreditation Manager.
- 4% E. Implementation of warden's decisions or directives regarding resident complaints.
- \* \* \*
- 3% F. Recordkeeping of resident complaint information.

The appellant's supervisor is Gordon Abrahamson, DCI Superintendent.

3. The Administrative Assistant 3 (AA 3) classification definition reads:

Under general direction to do administrative work of more than ordinary difficulty and responsibility requiring the exercise of a considerable amount of individual initiative and independent judgment in directing the business management of a division engaged in a comprehensive non-professional program or activity; and to perform related work as required.

The AA 4 classification definition reads:

This is line supervisory and/or staff assistance work in a state agency or segment of a large state agency. Employees in this class have supervisory responsibilities over a large, moderately complex records processing and maintenance unit involving a variety of functions and having large clerical staffs with a number of subordinate levels of supervision, and/or supervise and perform staff services in records, accounting, personnel, budgeting or purchasing. Employees are responsible for interpretations of laws, rules and departmental policies in carrying out their assigned functions. Work is performed with a minimum of supervision which is received through staff conferences or general written or oral instructions. Employees are expected to carry out assigned functions with a considerable amount of initiative and independence with the results of their work reviewed through oral or written reports and personal conferences.

The AA 5 classification definition reads:

This is responsible line administrative and/or professional staff assistance work in a large state agency. Employees in this class direct an important function of the department and/or provide staff services in management areas such as accounting, purchasing, personnel or budget preparation. Employees in this class may be responsible for supervising a staff of techni-

cal, semi-professional or professional employes in directing the assigned program. Employes have a great deal of latitude in areas of decision making and initiating action within a broad framework of laws and rules. Work is evaluated by administrative superiors through conferences, personal observations and reports.

All three of these classification levels have corresponding definitions for "Confidential/Supervisor." Those definitions are, for the most part, similar to the above definitions but also state: "All positions allocated to this class must meet the definitions of "Confidential" and "Supervisor" as contained in s. 111.81 Stats."

4. All Inmate Complaint Investigators in state service, other than the position occupied by Charles Miller described in finding 6b below, are classified at the AA 3-Confidential level.

5. The appellant's duties are comparable from a classification standpoint to the following positions:

a. The AA 3-Confidential position of Inmate Complaint Investigator at Kettle Moraine Correctional Institution held by James Harper. Seventy percent of Mr. Harper's duties consist of the investigation and evaluation of inmate complaints and maintenance of related files. The remaining 30% of Mr. Harper's duties involve providing assistance to the institution superintendent.

b. The AA 3-Confidential position of Assistant to the Superintendent held by James Zanon at the Green Bay Correctional Institution. According to Mr. Zanon's position description, he spends 45% of his time serving as his institution's litigation coordinator and the remaining 55% fulfilling general administrative responsibilities, including special assignments and public relations functions.

6. The appellant's duties are less significant from a classification standpoint than the following positions:

a. The AA 4 position of Administrative Assistant in the Long Term Care Section, Bureau of Quality Compliance, Division of Health, Department of Health and Social Services held by Carol Ringeisen. The relevant position description includes the following position summary:

With a minimum of supervision, this position serves as the principal assistant to Chief of the Long-Term Care Section (LTC). This is a large section employing over 100 professional and support field staff who are responsible for the survey process of 485 long term care facilities and 50 swing bed hospitals for compliance with federal certification and state nursing home licensure standards. This section also conducts inspections of care for all Title XIX nursing home residents (38,000 annually) as part of the Medicaid Utilization Control Program. This position provides budgetary planning,

interpretations of laws rules and department policies; develops procedures, forms and reviews program areas for needed changes. This position functions with a [sic] considerable decision making and program implementation independence.

The Ringeisen position has considerably greater scope, responsibility and impact than the appellant's position.

b. The AA 5 position of Correction Complaint Examiner/Inmate Complaint Review System in the Legal Services Division of the Department of Justice held by Charles Miller. Mr. Miller's duties are similar to the appellant's in that they are both involved in the Inmate Complaint Review System. However, Mr. Miller reviews complaints at a later stage in that process. Those complaints may arise from anywhere in the correctional system. Mr. Miller must be familiar with internal codes, policies and procedures for all DOC institutions. He must reconcile conflicts between the rules of the Department of Health and Social Services (DHSS) and the rules of DOC for those DOC inmates who are housed at DHSS institutions. Mr. Miller's recommended decisions relating to inmate complaints are made to the Secretary of DOC and these recommendations may affect the entire correctional system, whereas the appellant's recommendations are made to the DCI superintendent and their effect will typically be restricted to DCI. The Miller position has considerably greater scope, responsibility and impact than the appellant's position.

#### CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to §230.44(1)(b), Stats.
2. Appellant has the burden of proving by a preponderance of the evidence that respondents erred in denying the request to classify his position at either the AA 4-Confidential or AA 5-Confidential levels.
3. Appellant has not sustained his burden of proof and it is concluded that respondents did not err in denying the request to reclassify or reallocate the appellant's position.

## OPINION

Given the general nature of much of the language of the AA 3, 4 and 5 position standards,<sup>1</sup> the resolution of this case revolves around the classification of positions performing duties which are comparable to those being performed by the appellant.

The appellant's duties fall into three main categories: 1) inmate complaint investigations (ICI), implementation of ICI decisions and related recordkeeping (42%), 2) civil litigation coordinator (30%), and 3) general administrative duties, including serving as Assistant Accreditation Manager (28%).

The evidence indicates that all inmate complaint investigators are classified at the AA 3-Confidential level. In addition, the appellant's litigation duties are comparable to those performed by Mr. Zanon, whose position is also at the AA 3-Confidential level. Respondent also offered testimony that at the various other correctional institutions, the civil litigation duties may be performed by the Institution Registrars who are allocated to a classification assigned to the same pay range (PR1-12) as the AA 3-Confidential classification. Finally, the appellant's general administrative duties are consistent with the other administrative duties performed by Mr. Zanon.

The appellant's duties also do not withstand a comparison to either the Ringeisen or Miller positions, both of which have significantly greater impact and responsibility than the appellant's position. The Ringeisen position is assigned "considerable decision making and program implementation independence" on a state-wide basis. In contrast, the appellant's role is limited to DCI. The Miller position also has a state-wide scope and a higher level of responsibility, consistent with the fact that Mr. Miller's review of inmate complaints occurs at a later stage in the complaint process than the appellant's review. Mr. Miller must insure uniformity between the institutions, resolves conflicts between DOC and DHSS and recommends decisions to the Secretaries of DHSS and DOC. In contrast, the appellant recommends decisions to the Superintendent of DCI.

The appellant's main contentions relate to systemic problems of the pay level for inmate complaint investigators. One of the appellant's witnesses testified that it is difficult to investigate the actions taken by an employe assigned to a higher pay range and to have the results of that investigation taken seriously by the employe. While the Commission has no reason to doubt the accuracy of this description of the dynamics of an inmate complaint

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<sup>1</sup>The Administrative Assistant position standards were written in March of 1968. In some cases, the standards include limiting language in the definition statements which has become outmoded. For example, the AA 3 definition refers to "directing the business management of a division engaged in a comprehensive non-professional program or activity." Current allocation of positions to the AA series have effectively supplemented or revised the position standards to delete this limiting language.

investigation, it does not provide a basis on which the Commission could ignore the allocation pattern and classify the appellant's position to the AA 4-Confidential or AA 5-Confidential levels.

The appellant also contends that represented employees receive preferential treatment because they can bargain for changes in the classification structure. This is also not an issue which is properly before the Commission. The appellant offered no evidence which would tend to support a conclusion that changes made in the classification structure for any other positions, whether represented or non-represented, had an impact on the proper classification of the appellant's position given the current language of the AA series and the existing allocation pattern.

ORDER

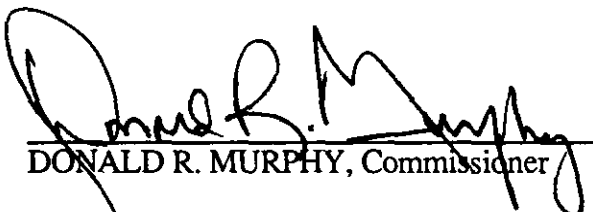
The respondent's decision to classify the appellant's position at the Administrative Assistant 3-Confidential level rather than to reclassify or reallocate the appellant's position to either the Administrative Assistant 4-Confidential or Administrative Assistant 5-Confidential level is affirmed and this appeal is dismissed.

Dated: April 17, 1992

STATE PERSONNEL COMMISSION

  
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KMS:kms

  
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