STATE OF WISCONSIN PERSONNEL COMMISSION

KEITH BLOSS,
Complainant,

v.

Secretary, DEPARTMENT OF CORRECTIONS,
Respondent.

Case Nos. 99-0079-PC-ER
99-0095-PC-ER

RULING ON RESPONDENT'S MOTIONS TO DISMISS

The above-noted cases are before the Commission to resolve respondent's motions to dismiss. Both parties filed written arguments. The findings below are made solely to resolve the present motions and appear to be undisputed by the parties, unless specifically noted to the contrary.

FINDINGS OF FACT

1. The complaint in case #99-0079-PC-ER, was filed with the Commission on April 22, 1999 (hereafter, the First Case). Complainant alleged in the First Case that respondent discriminated against him on the basis of creed in violation of the Fair Employment Act (FEA) (Subch. II of Ch. 111, Stats.) and retaliated against him for participating in activities protected under the Whistleblower Law (Subch. III, Ch. 230, Stats.). Complainant withdrew his Whistleblower claim by letter dated August 2, 1999, stating as follows:

> As to my assertion on whistleblowing, I have to agree with Respondent that I have no cause based on 230.81 & 230.83 Stats. When I originally filed my complaint I checked any of the boxes I thought applied. I admit that was a wrong choice.

2. Complainant alleged in the First Case that respondent treated him unfairly after the Wisconsin State Journal published one of his letters in the editorial section of the newspaper on March 14, 1999. The text of the published letter is shown below, with the

headline and lead-in noted in bold type. (The ellipses shown below are in the original document. No text was deleted.)

Today's mail: Religion in prison, U.N. debt, more
Prison cater to inmates' religious 'beliefs'

I have been a correctional officer at the Columbia state prison in Portage for six years. I find it interesting that the State Journal's Feb. 28 story on religious programs for prison inmates failed to include interviews with any front-line officers. We are the ones who would know best whether these programs work or not . . . Heaven forbid John Q. Public finds out what really goes on in here.

For instance, contrary to the article, not everyone is locked in their cells for 23 hours per day. Currently, there are no inmates in Wisconsin locked in their cells for that extended period of time that I am aware of, except those in segregation status.

The religious programs and services now offered seem only to help those who truly want to change. Otherwise, they are just ways for inmates to get out of their units for a while, to communicate with others regarding gang-related activities, or to look good for parole . . .

If anything, inmates are given too many religious options. The options for them are more plentiful than for the average citizen outside an institution. For instance, Juma, Catholic, Protestant, Native American, Islamic, Wiccan and other options are offered, with the opportunity to change religions whenever the inmate requests. My co-workers and I have to sit at these services with the inmates, regardless of our own beliefs. We have even been "ordered" to do so, "ordered" meaning mandatory overtime. Who is being discriminated against? Surely not the inmates!

We have to make special accommodations (for inmates), too. Muslims don't eat pork even though now we have to serve it more often. (Gov. Thompson told us to.)

During the observance of Ramadan, Muslim inmates cannot eat their meals during daylight hours so we have to prepare special meals to give to them before sunrise and after sunset. For Native American services, if the ceremony goes past the lunch hours, a meal has to be saved for them. We have an inmate in segregation who says he is Jewish and, because of the threat of a lawsuit, Kosher food has to be prepared for him . . .

There are many more important issues that state Rep. Scott Jensen and our Legislature should be concerned about before increasing spending on religious programs. Issues that need to be dealt with include:

- Overcrowding that leads to inmates being sent out of state.
- New prison construction without enough staff for the ones we already have.
- Retaining current employees due to noncompetitive wages . . .

3. Complainant alleged as discriminatory acts in the First Case, the following incidents:

a. On 3/16/99, Lt. Schonenberg telephoned the complainant saying Mr. Douma saw complainant wearing a blue T-shirt and that complainant was violating respondent's dress code. Mr. Douma is the Security Director for CCI. Complainant told Lt. Schonenberg he was not violating the dress code because he was wearing a comparable blue undergarment, which is allowed under the dress code.

b. On 3/17/99, Security Director Douma confronted complainant in the control vestibule (where the conversation was not private) saying complainant was in violation of the dress code because he was wearing a blue T-shirt. Complainant told Mr. Douma he was in compliance with the policy because he was wearing a compatible blue undergarment. Complainant referred Mr. Douma to page 200 of the WSEU contract, negotiating note #31. According to complainant, "Mr. Douma would have none of this" and said he was going to have Lt. Schonenberg write complainant up. Complainant told Mr. Douma to go ahead.

c. On 3/18/99, complainant was called into Captain Trattles' office, where he was met by the Captain and Lt. Schonenberg, along with Officer Wech (complainant's union representative). Complainant was instructed to change his blue T-shirt for a white one. Complainant refused. Complainant was asked if he wanted to go home and change his T-shirt. Complainant replied that if he went home he would not come back to work because he did not feel well. Complainant and his union representative then spoke together privately and ultimately complainant removed his blue T-shirt.

d. Complainant contends he was given demeaning work assignments as follows:
   - 3/24/99, assigned to help file confidential papers in inmate records.
   - 4/1/99, assigned to Unit 5 so the officer on duty could work in the property room.
   - 4/4/99, assigned to work in the visiting room.

e. By disciplinary letter dated April 27, 1999, complainant received a one-day suspension for his failure on March 16 and again on March 17, to follow supervisory directives not to wear a blue T-shirt.[1]

---

[1] The imposition of discipline by letter dated April 27, 1999, is included as part of the First Case even though the event occurred after the complaint was filed. The complainant was informed prior to filing the First Case that some form of discipline would be imposed and he raised this as an issue in the First Case.

4. On May 18, 1999, complainant wrote to Deputy Warden, Frances Paul. Complainant requested an investigation of incidents "a" through "c," as enumerated in the prior paragraph. (The events alleged in "d" and "e" had not yet occurred.) Complainant's letter concluded with the following three paragraphs:

> I find it strange that the above actions occurred because I thought this issue was resolved 2 years ago when then-Capt. Clements wanted to discipline me for wearing a black undergarment. After a letter and a phone call exchange between Warden Endicoff and myself I agreed I would comply with the dress code policy which I have done for over 2 years. In two years no one has said anything to me when I wore compatible blue undergarments under my uniform.
>
> It is my personal belief that these actions are taking place now because of the ongoing labor/management problems at CCI. I believe that I am being singled out because of an editorial comment written by me which was published in the Wis. State Journal just 2 days prior to the start of these actions against me. I believe Mr. Douma's actions and his fixation in my underclothes lead to an intimidating and hostile work environment for me, not to mention my degradation in being made to disrobe. I now fear further retaliation or harassment/hazing job assignments which would be easy for Mr. Douma to arrange with my immediate supervisors discreetly as my job position is as a utility officer. It would be very easy to disguise any humiliating or meaningless job assignments as "utility" jobs.
>
> I seek to insure that my above stated fears will not come to pass. I also seek an apology from Mr. Douma for his actions as well as an assurance that this type of behavior will not be condoned or happen to anyone else in the future. I also seek 1 hour of overtime pay for my drafting of this (letter). Thank you.

5. On March 31, 1999, Deputy Warden Paul replied to complainant's letter (see prior paragraph), as noted below in pertinent part:

> In review and consideration of your letter dated March 18, 1999, I don't believe there is a basis for your claims of harassment. The dress code policy clearly states that "when a uniform shirt is worn without a tie, a clean, neat, white crew neck T shirt or undershirt may be worn. No other colors are permitted." . . .
>
> I find your comment about fears of further retaliation interesting. You state you fear being given humiliating and meaningless assignments under the guise of "utility" jobs. I will admit that there are some assignments at CCI that are less

> appealing than others. If I apply your reasoning to these assignments, am I also to believe that any staff member performing one or more of these humiliating and meaningless duties is being harassed and/or retaliated against? I don't believe so. If you believe this is happening, please feel free to contact me again.

6. Respondent is required to accommodate inmates' religious beliefs. The pertinent statutory section is recited below. The statute is implemented by §DOC 309.61, Wis. Adm. Code.

> §*301.33, Stats.* **FREEDOM OF WORSHIP; RELIGIOUS MINISTRATION.** (1) Subject to reasonable exercise of the privilege, members of the clergy of all religious faiths shall have an opportunity, at least once each week, to conduct religious services within the state correctional institutions. Attendance at the services is voluntary.
>
> (2) Every inmate shall receive, upon request, religious ministration and sacraments according to the inmate's faith.
>
> (3) Every inmate who requests it shall have the use of the Bible.

7. A Commission Equal Rights Officer wrote to complainant by letter dated April 29, 1999, requesting his response to specific questions. Complainant replied by letter dated May 6, 1999, as shown below (in relevant part):

> Question #1: What is your creed? Answer: I was baptized Lutheran, however, I do not actively practice it. If I were to say I was anything, it would lean towards Catholicism which are what my wife and daughter practice. Personally, I believe in an individual's right to the religious practice of their choice but I don't believe in organized religious activities especially when they are condoned by the government. There is supposed to be a "separation of church and state."
>
> Question #2: Explain how you were discriminated against on the basis of creed in relation to the alleged adverse terms and conditions of employment cited in your complaint, i.e., what is the connection between your creed and the issues you raised in your complaint? Answer: As I have mentioned in my original complaint letter to Ms. Fran Paul (Associate Warden) dated 3/18/99 of which you have a copy, nothing had happened to me until after an editorial letter to the Wisconsin State Journal written by me was published. The editorial letter dealt with religious programs in the prison system and the expansion of them. My letter rebuked the Journal's reporting and took issue with more urgent problems

the Department of Corrections is facing. All the issues addressed in my complaint happened after my editorial was printed, even though I've done nothing different for over 2 years.

8. The complaint in case #99-0095-PC-ER (hereafter, the Second Case), was received by the Commission on May 21, 1999. Complainant did not check any boxes on the complaint form to indicate the basis upon which he felt discrimination or retaliation occurred. On May 25, 1999, complainant told the Commission's Equal Rights Officer that he is claiming retaliation based on activities protected under the FEA, to wit: the filing of his First Case. The alleged retaliatory acts are summarized below from information contained in the complaint.

a. On 5/13/99, complainant was standing in the control center vestibule with Security Director Douma, Sgt. Crary and teacher D. Holzman. Mr. Douma looked at complainant and said, "Good morning, Keith." Complainant responded saying, "'morning," and added, "That's Officer Bloss to you." Complainant explained that he made the last statement because he had been disciplined lately for being unprofessional (specifically, for wearing a blue T-shirt). He further explained that CCI officers are required to refer to all supervisors as "Mr.," "Mrs.," "Captain" or "Lieutenant" so complainant felt Mr. Douma should have addressed complainant as "Officer Bloss" rather than by first name. According to complainant, Mr. Douma "glared" at complainant and Mr. Holzman laughed out loud. Complainant then opened the break room door for Sgt. Crary and Mr. Holzman. Mr. Douma took hold of the door to allow complainant to enter and leaned close to complainant's face saying, "I won't have you talk to me in that tone again!" Complainant replied, "Don't call me Keith then." Complainant noted that Mr. Douma is about 7 inches taller than complainant and, accordingly, complainant felt intimidated and threatened by Mr. Douma's actions. About 3 hours later, complainant was "called into" Capt. Traffles' office where Capt. Traffles indicated he had no problem addressing complainant as "Officer Bloss" but he would not tolerate complainant's "attitude" or "tone of voice" anymore.
b. On 5/14/99, complainant was called to Capt. Traffles' office. Capt. Traffles gave complainant an envelope containing a disciplinary letter imposing a 3-day suspension for work rule violations stemming from an investigation in January. According to complainant, 25 or more employees' use of work computers was investigated and that as of the date he filed the Second Case, only complainant had been formally disciplined although he knew others had received verbal counseling.

9. The Commission sent respondent a copy of the First Case by cover letter dated April 23, 1999.

10. Respondent has a policy prohibiting unauthorized personal use of computers including the playing of games. According to respondent, management received information regarding possible unauthorized and/or inappropriate use of CCI computers, which lead to an investigation with the assistance of respondent's Bureau of Technology Management. Respondent does not indicate the date upon which management received the referenced information or the date upon which the investigation was commenced or completed. Complainant was found to have misused CCI computers on July 16, 1998, and twice on December 27, 1998. Complainant admitted during an investigatory interview on January 28, 1999, that he used CCI computers to access the internet for non-work reasons and, in particular to access sports, rodeo and erotic story sites. He further admitted that he had looked up internet sites for other people. In his own defense, complainant indicated the employees were told at computer training to "play with the computers" and that there is nothing he could do to "mess up or get into trouble."

11. A pre-disciplinary meeting was held with complainant on May 3, 1999, regarding his unauthorized use of CCI computers. Complainant basically gave the same information at this meeting as he did at the investigatory interview.

12. The 3-day suspension was imposed by letter dated May 11, 1999, from Warden Jeffrey P. Endicott which stated (in pertinent part) as shown below:

> I have reviewed the attached written report charging you with violation of Department of Corrections Work Rule C1.[2] This charge is a result of your unauthorized use of CCI computers to access the internet.
>
> This is your third Category B violation during the past twelve months. According to the Department of Corrections Uniform Disciplinary Guidelines,

---

[2] Work Rule C1 states as shown below:

> Unauthorized or improper use of state or private property, services or authorizations, including but not limited to vehicles, telephones, electronic communications, mail service, credit cards, computers, software, keys, passes, security codes and identification while in the course of one's employment; or to knowingly permit, encourage or direct others to do so.

> you will receive a three-day suspension from work on May 26, 27 and 28, 1999. You will report to work on May 29, 1999, at your normally scheduled time. Further violations may result in more severe disciplinary action.
>
> Further, I am instructing Captain Trattles, Shift Commander, to counsel you on policies and procedures regarding computer use at CCI.

13. Respondent provided documents under a Protective Order issued by the Commission on July 14, 1999. These documents show that four other officers were disciplined for unauthorized use of computers. It appears to be undisputed that these four officers have never engaged in an activity protected under the FEA. Two of the four officers received a written reprimand by letters dated May 18 and 19, 1999, for unauthorized computer use, which was their first category B violation over the past twelve months. The third officer received a five-day suspension by letter dated May 26, 1999, for unauthorized computer use, which was the fourth category B violation over the past twelve months. The fourth officer received a one-day suspension by letter dated May 26, 1999, for unauthorized computer use, which was the second category B violation over the past twelve months.

14. Complainant's brief in opposition to respondent's motion to dismiss included the following pertinent information:

> In (respondent's Answer filed in the Second Case, respondent) states the decision to suspend me was made by Mr. Kannenberg and Warden Endicott. This is true, but as my "documents enclosed" will show you Mr. Endicott was guilty of this same offense on at least two occasions as well as others from a Unit Manager to a secretary. Why is it ok for others to misuse state computers but not myself or the others. "Security" staff were the only individuals to receive any kind of discipline for this.

The referenced "enclosed documents" include an e-mail message from various staff who are not security officers showing that some staff continue to use e-mail for non-work purposes such as for sharing recipes and jokes.

CONCLUSIONS OF LAW

1. Complainant failed to meet his burden to establish that the First Case states a viable claim of creed discrimination.

2. Complainant withdrew his claim of retaliation under the Whistleblower Law in the First Case.

3. Respondent met its burden to establish entitlement to summary judgment in the Second Case

OPINION

I. The First Case

Respondent moved to dismiss the First Case for failure to state a claim. The standard for consideration is shown below:

> For the purpose of testing whether a claim has been stated pursuant to a motion to dismiss . . . the facts pleaded must be taken as admitted. The purpose of the complaint is to give notice of the nature of the claim; and, therefore, it is not necessary for the plaintiff to set out in the complaint all the facts which must eventually be proved to recover. The purpose of a motion to dismiss for failure to state a claim is . . . to test the legal sufficiency of the claim. Because the pleadings are to be liberally construed, a claim should be dismissed as legally insufficient only if "it is quite clear that under no conditions can the plaintiff recover." The facts pleaded and all reasonable inferences from the pleadings must be taken as true, but legal conclusions and unreasonable inferences need not be accepted.

Morgan v. Pennsylvania General Ins. Co., 87 Wis.2d 723, 731,275 N.W.2d 660 (1979) (citations omitted). Also see, *Phillips v. DHSS & DETF*, 87-0128-PC-ER, 3/15/89; aff'd. *Phillips v. Wis. Pers. Cmsn.*, 267 Wis.2d 205, 482 N.W.2d 121 (Ct. App. 1992) where the Commission adopted the *Morgan* standard.

Complainant alleged in the First Case that certain actions were taken against him (see enumeration in ¶3 of the Findings of Fact (FOF)) because of the publication of his editorial in the newspaper (see ¶2 FOF). He initially contended the actions were taken in violation of creed discrimination protections embodied in the Fair Employment Act (FEA) and as retaliation under the Whistleblower Law. He later withdrew his claim under the Whistleblower Law (see ¶1 FOF).

Respondent's statement that there "is no blue shirt religion" (letter brief dated 8/10/99) misses the point. This is not a religious accommodation case. Complainant is not contending

that his religion required him to wear a blue shirt or that respondent failed to accommodate a tenet of his religious beliefs by not allowing him to wear a blue shirt. Rather, complainant contends that the adverse actions were taken because of his published editorial and that this constitutes creed discrimination under the FEA.

One problem with complainant's argument is that his published editorial did not disclose his own creed (or lack thereof). Accordingly, even if the adverse actions were taken because of the published editorial it does not follow that the adverse actions were taken because of his creed which is a necessary element of his prima facie case. See, Sullivan et al. *Employment Discrimination 2nd ed.*, §9.2, which states that the "plaintiff bears the burden of persuasion that the challenged action was taken by the employer because of the religion of the plaintiff." In accord, *Green v. DHSS*, 92-0237-PC-ER, 12/13/93.

As noted in ¶6 of the Findings of Fact, respondent is required by statute to accommodate inmates' religious beliefs. Complainant's published editorial read in light of this requirement expresses his personal or political belief that the Legislature should not allocate more money accommodating inmates' religious beliefs and, instead, should spend the money on what he perceives as more pressing needs of the prison system as a whole. The FEA's protection against creed discrimination, however, does not extend to include personal or political beliefs. *Augustine v. Anti-Defamation League of B'nai B'rith*, 75 Wis.2d 207, 249 N.W.2d 547 (S.Ct. 1977).

The Commission concludes based on the foregoing analysis that it is quite clear there are no circumstances under which complainant could recover on his claim of creed discrimination in the First Case. Since complainant has withdrawn his claim of retaliation under the Whistleblower Law the First Case is dismissed *in toto*.

II. The Second Case

Respondent's motion to dismiss in the Second Case is tantamount to a motion for summary judgment. The Commission utilizes the following standard in reviewing such motions:

> On summary judgment the moving party has the burden to establish the absence of a genuine, that is, disputed, issue as to any material fact. On summary judgment the [Commission] does not decide the issue of fact; it decides whether there is a genuine issue of fact. A summary judgment should not be granted unless the moving party demonstrates a right to a judgment with such clarity as to leave no room for controversy; some courts have said that summary judgment must be denied unless the moving party demonstrates his entitlement to it beyond a reasonable doubt. Doubts as to the existence of a genuine issue of material fact should be resolved against the party moving for summary judgment.
>
> The papers filed by the moving party are carefully scrutinized. The inferences to be drawn from the underlying facts contained in the moving party's material should be viewed in the light most favorable to the party opposing the motion. If the movant's papers before the [Commission] fail to establish clearly that there is no genuine issue as to any material fact, the motion will be denied. If the material presented on the motion is subject to conflicting interpretations or reasonable people might differ as to its significance, it would be improper to grant summary judgment.

Grams v. Boss, 97 Wis.2d 332, 338-339, 282 N.W.2d 637 (1980), citations omitted.

The Commission, by letter dated October 25, 1999, provided notice to complainant that the Commission considered the motion on the Second Case to be a motion for summary judgment. Complainant was provided an opportunity to dispute any facts recited in paragraphs 8-14 of the Findings of Fact[3] and was told that failure to respond by a stated deadline would be interpreted as his agreement with those facts. He did not respond within the stated timeframe.

Complainant alleged in the Second Case that certain actions were taken against him (see enumeration in ¶7 FOF) because he filed the First Case, an activity protected under the FEA. To establish a prima facie case in the retaliation context, there must be evidence that 1) the complainant participated in a protected activity and the alleged retaliator was aware of that participation, 2) there was an adverse employment action, and 3) there is a causal connection between the first two elements. A "causal connection" is shown if there is evidence that a retaliatory motive played a part in the adverse employment action.

---

[3] The text of paragraph 14 sent with the October 25th letter to complainant, contained specific details regarding the e-mail copies he provided. This final ruling summarized the content of those e-mails

The First Case filed by complainant is an activity protected under the FEA. It is presumed for analysis of the present motion that the alleged retaliators were aware that complainant filed the First Case (see ¶9 FOF). Accordingly, complainant has established the first element of his prima facie case.

Respondent contends in regard to the second element of the prima facie case that the one incident with Director Douma on May 13, 1999, is insufficient to support a claim of retaliation. The first incident considered together with the 3-day suspension, however, may be sufficient to support a claim of retaliation -- a potential not addressed in respondent's arguments. Viewing the facts in a light most favorable to the complainant (as is required in the context of the pending motion) the Commission concludes that complainant established the second element of his prima facie case.

The main dispute is whether complainant has established the requisite "causal connection" in the third element of his prima facie case. The Commission answers this question in the negative. Complainant was disciplined for misuse of CCI computers, as were several other officers. The other disciplined officers did not participate in an activity protected under the FEA. Accordingly, no inference of FEA retaliation is raised and the requisite "causal connection" cannot be established.

Complainant noted that other non-officer employees continue to misuse the CCI computers and, apparently, without being disciplined by respondent (see ¶14 FOF.) This information may be sufficient to indicate that security officers are being held to a stricter standard than other employees in regard to use of CCI computers, but it does not suggest that such different treatment is based on participation in an activity protected under the FEA. In summary, respondent has demonstrated entitlement to summary judgment beyond a reasonable doubt.

---

instead of enumerating individual's names along with the noted inappropriate use of respondent's computers.

ORDER

Respondent's motions to dismiss are granted. Case #99-0079-PC-ER is dismissed for failure to state a claim. Case #99-0095-PC-ER is dismissed on summary judgment.

Dated: November 3, 1999.

STATE PERSONNEL COMMISSION

LAURIE R. McCALLUM, Chairperson

DONALD R. MURPHY, Commissioner

JMR990079+Crul2.doc

JUDY M. ROGERS, Commissioner

Parties:

Keith Bloss
506 Gillette Avenue
Wisconsin Dells, WI 53965

Jon Litscher
Secretary, DOC
149 E. Wilson St., 3rd Fl.
P. O. Box 7925
Madison, WI 53707-7925

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 (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) 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.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)

2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.) 2/3/95