

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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BRADLEY HOMPE, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0178

Case Type: PA

DECISION NO. 36745

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**Appearances:**

Bradley Hompe, 16566 County Road G, Stanley, Wisconsin, appearing on his own behalf.

Michael J. Gentry, Department of Administration, 101 E. Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

Appellant Bradley Hompe was informed on August 18, 2016 that he was being involuntarily transferred from the position he held to the position of Inmate Appeal Examiner. The transfer resulted in a \$3.40 per hour reduction in pay and was taken as a result of the alleged violation of a work rule of the Department of Corrections. A timely appeal was filed and the matter proceeded through the grievance procedure and was ultimately appealed to the Wisconsin Employment Relations Commission. The State moves to dismiss asserting that we lack jurisdiction over the “involuntary transfer” component of the appeal.

**DECISION AND ORDER DENYING MOTION TO DISMISS**

Hompe clearly was being punished by DOC for off duty conduct he engaged in which, in the judgment of DOC, reflected poorly upon the agency. Hompe’s new position removed him from any “involvement with the community, outside law enforcement or jail administration.” The new position resulted in a reduction in pay of \$3.40 per hour or approximately \$7,000.00 per year. The State argues that while we have jurisdiction over the reduction in pay, we lack jurisdiction over the involuntary transfer because Hompe does not allege that he was constructively demoted.

We find that argument illogical. There is no question that Hompe was being punished for engaging in off duty conduct which DOC deemed in violation of its work rules. This is not a constructive demotion case. While DOC may call the personnel action an involuntary transfer it is clearly an actual demotion. The significant pay reduction and new position walling Hompe off from outside contact is a demotion which occurred as a punishment for his purported violation of the work rules. DOC is obligated to establish just cause for the personnel transaction at issue which includes both the demotion and the reduction in pay.

The State's reliance on *Wasmer v. DOC*, Dec No. 36176 (WERC 2016), is misguided. Wasmer, a Department of Justice special agent, was transferred to a new position in the same civil service pay range with a \$2.72 per hour pay increase. She argued that the transfer was a *de facto* demotion done to punish her. We acknowledged in that case that there are "circumstances where an employee is transferred to a new position and the transfer is truly punitive and in fact amounts to a *de facto* demotion." No such mystery surrounds this transaction. Hompe's move was punitive and he lost \$7,000.00 per year as a result. That is an event clearly within our jurisdiction and, accordingly, we deny the motion to dismiss.

### **ORDER**

The motion to dismiss is denied.

Signed at the City of Madison, Wisconsin, this 8th day of November 2016.

### **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner

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James J. Daley, Commissioner