

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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EVAN RUSSO, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0341

Case Type: PA

DECISION NO. 38435-A

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**Appearances:**

Evan Russo, 2094 Nancy Drive, Tomahawk, Wisconsin, appearing on his own behalf.

Anfin Jaw, 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.

**DECISION AND ORDER DENYING PETITION FOR REHEARING**

On June 3, 2020, the Wisconsin Employment Relations Commission issued a Decision and Order in the above-captioned matter affirming the discharge of Evan Russo by the State of Wisconsin Department of Corrections. Later that day, Russo filed a petition for rehearing pursuant to Wis. Stat. § 227.49. The State filed a statement opposing the petition and additional argument was received until June 6, 2020.

Russo argues that the Commission erred in its review of the factual evidence. Russo is correct that there is evidence that supports his position. However, the record as a whole continues to persuade the Commission that it did not make an error of fact or law when it concluded that Russo engaged in misconduct. Russo also contends that there is video evidence that would support his position. Any such evidence existed at the time of hearing in this matter and thus does not fit within the newly discovered evidence category set forth in Wis. Stat. § 227.49(3)(c). Further, any such evidence would not prove or disprove whether Russo said he was “sick” and thus would not be sufficiently strong to reverse the Commission’s June 3, 2020 Decision and Order, as also required by Wis. Stat. § 227.49(3)(c).

Issued at the City of Madison, Wisconsin, this 19<sup>th</sup> day of June, 2020.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman