

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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RODNEY KRATZ, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0404

Case Type: PA

DECISION NO. 38804

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Appearances:

Rodney Kratz, W3010 Gem Road, Montello, Wisconsin, appearing on his own behalf.

Anfin Jaw, Attorney, Department of Administration, 101 East Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

**DECISION AND ORDER**

On October 16, 2020, Rodney Kratz filed an appeal with the Wisconsin Employment Relations Commission asserting he had been discharged without just cause by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Examiner Peter Davis and a telephone hearing was held on January 7, 2021. DOC and Kratz made oral argument at the conclusion of the hearing.

On February 1, 2021, Examiner Davis issued a Proposed Decision and Order affirming the discharge. No objections were filed, and the matter became ripe for Commission consideration on February 8, 2021.

Being fully advised on the premises and having considered the matter, the Commission makes and issues the following:

**FINDINGS OF FACT**

1. Rodney Kratz (herein Kratz) was employed by the State of Wisconsin Department of Corrections (DOC) as a Correctional Officer and had permanent status in class at the time of his July 16, 2020 discharge.

2. On April 16, 2020, Kratz failed to notice two prisoners escaping from Columbia Correctional Institution as he drove by them in a patrol vehicle.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

**CONCLUSIONS OF LAW**

1. The Wisconsin Employment Relations Commission has jurisdiction over this appeal pursuant to Wis. Stat. § 230.44 (1)(c).

2. The State of Wisconsin Department of Corrections had just cause within the meaning of Wis. Stat. § 230.34(1)(a) to discharge Rodney Kratz.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

**ORDER**

The discharge of Rodney Kratz is affirmed.

Issued at Madison, Wisconsin, this 9<sup>th</sup> day of February, 2021.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

**MEMORANDUM ACCOMPANYING DECISION AND ORDER**

Section 230.34(1)(a), Stats., provides in pertinent part the following as to certain employees of the State of Wisconsin:

An employee with permanent status in class ... may be removed, suspended without pay, discharged, reduced in base pay or demoted only for just cause.

Section 230.44(1)(c), Stats., provides that a State employee with permanent status in class:

... may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission ... if the appeal alleges that the decision was not based on just cause.

Rodney Kratz, a 20-year DOC employee, had permanent status in class at the time of his discharge and his appeal alleges that the discharge was not based on just cause.

The State has the burden of proof to establish that Kratz was guilty of the alleged misconduct and whether the misconduct constitutes just cause for the discipline imposed. *Reinke v. Personnel Bd.*, 53 Wis.2d 123 (1971); *Safransky v. Personnel Bd.*, 62 Wis.2d 464 (1974).

On April 16, 2020, Kratz was patrolling the outer security fence at Columbia Correctional Institution in a patrol vehicle and failed to notice two prisoners escaping as he drove by their location. Kratz admits he was likely daydreaming and correctly points out that he is only human. Nonetheless, it is clear he failed to fulfill his most important security role as the “last line of defense.” While other security failures also contributed to the inmates’ successful escape, those failures do not detract from the serious nature of Kratz’s misconduct.

Even factoring in Kratz’s substantial length of service, there can be little doubt that the risk to public safety linked to Kratz’s failure to notice the escaping prisoners provides just cause for his discharge. Therefore, the discharge is affirmed.

Issued at Madison, Wisconsin, this 9<sup>th</sup> day of February, 2021.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman