

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

**MAR 1 1990**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals pursuant to s. 808.10 within 30 days hereof, pursuant to Rev. 809.62 (1).

**NOTICE**

This opinion is subject to further editing. If published the official version will appear in the bound volume of the Official Reports.

No. 89-1049

STATE OF WISCONSIN

IN COURT OF APPEALS  
DISTRICT IV

**FILED**

NANCY COZZENS-ELLIS,

**MAR 1 1990**

Petitioner-Appellant,

CLERK OF COURT OF APPEALS  
OF WISCONSIN

v.

WISCONSIN PERSONNEL COMMISSION,

Respondent.

APPEAL from an order of the circuit court for Dane county: SUSAN R. STEINGASS, Judge. *Affirmed.*

Before Gartzke, P.J., Dykman, J., and Sundby, J.

GARTZKE, P.J. The Wisconsin Personnel Commission dismissed Nancy Cozzens-Ellis's appeal from a denial of her application for promotion within the classified civil service. She appealed to the commission pursuant to sec. 230.44(1)(d), Stats., and the commission dismissed her

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**MAR 2 1990**

**Personnel  
Commission**

appeal as untimely under sec. 230.44(3).<sup>1</sup> The circuit court affirmed, she appeals to this court, and we affirm.

The issue is whether for purposes of sec. 230.44(3), Stats., the "effective date of the action" of a promotion denial is the date the decision was made not to promote or the date the person who was promoted began the new job. We conclude that the commission's interpretation, the former, is reasonable.

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<sup>1</sup> Section 230.44, Stats., reads in relevant part:

(1) [T]he following are actions appealable to the commission ....

...

(d) A personnel action after certification [of names under sec. 230.25] which is related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion ....

....

(3) Any appeal filed under this section may not be heard unless the appeal is filed within 30 days after the effective date of the action, or within 30 days after the appellant is notified of the action, whichever is later ....

The facts are undisputed. Cozzens-Ellis is employed by the University of Wisconsin System in the classified civil service in the Department of Police and Security. She was certified for consideration for promotion to two supervisory positions within the department. On May 4, 1987, the head of the department, Chief Ralph Hansen, selected two other candidates for promotion to the positions. On May 5, 1987, Cozzens-Ellis was notified that the two other persons had been selected. On May 13, 1987, one of the two other persons first reported for and began performing the duties of one of the positions.<sup>2</sup> Cozzens-Ellis filed her appeal to the commission on June 11, 1987.

The commission concluded that her appeal was filed too late. The commission held that the "effective date of the action" she appealed from was May 4, 1987, the date she was passed over for promotion, rather than May 13, 1987, the date the person promoted began work in the new job. The thirty-day limitation period therefore began to run on May 5, 1987, the date she received notice of the denial, because that date is later than the effective date of the action. sec. 230.44(3), Stats.

<sup>2</sup> When the other person began is not of record.

We determine the meaning of a statute, a question of law, without deference to the conclusion of the circuit court. *Frank v. Personnel Commission*, 141 Wis.2d 431, 434, 415 N.W.2d 533, 535 (Ct. App. 1987). However, we defer to the commission's interpretation of statutes governing its review of personnel decisions if the interpretation is reasonable and consistent with the purpose of the statute. *Id.*

The commission's interpretation of sec. 230.44(3), Stats., is reasonable, and we affirm it. Under sec. 230.44(1)(d), an employee appeals from a "personnel action" alleged to be illegal or an abuse of discretion. If a person is denied a promotion, the "action" appealed from is the denial, not a later event stemming from it. This interpretation is consistent with the focus of the appeal on the nonpromotion of the appellant rather than the promotion of another person.

The commission argues that the thirty-day time limit for appeals, sec. 230.44(3), Stats., is jurisdictional. We need not and do not decide the issue.

*By the Court.*--Order affirmed.

Publication in the official reports is  
recommended.