

JAMES CARPENTER,
Appellant,

v.

**Secretary, DEPARTMENT OF
CORRECTIONS, and
Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,**
Respondents.

**FINAL
DECISION
AND ORDER**

Case No. 97-0115-PC

The Commission, after consulting with the examiner, adopts the proposed decision and order with certain modifications incorporated into the language of this final order, as its final disposition of this case. These modifications are made to clarify and more accurately reflect the record.

This matter is an appeal, pursuant to §230.44(1)(b), Stats., of respondents' decision to deny a request for reclassification of appellant's position from Administrative Assistant 4-Supervisor to Corrections Program Supervisor 1.

The appellant, James Carpenter, is employed by the Department of Corrections (DOC). Appellant's work unit is the Winnebago Correctional Center (WCC)/Outagamie County Jail; and he works under the general supervision of the Assistant Administrator of the Wisconsin Correctional Center System (WCCS), Phil Kingston, and the day-to-day direction of Superintendent of the WCC, James Nagle.

Appellant Carpenter was first appointed to the Administrative Assistant 4-Supervisor position at the Outagamie County Jail (OCJ) on June 26, 1994. Carpenter's position description (PD), signed April 29, 1994, shows that he was under the general supervision of Kingston. At that time Carpenter was responsible for the administration of the jail contract with the OCJ (45%), the administration of the jail contract at other

jails (25%), the provision of leadership in developing positive working relationships for jail staff with other agencies (20%), and the supervision of staff (10%).

In August 1996, Nagle submitted to Kingston a request for reclassification of appellant's position to Corrections Program Supervisor 1 (CPS1). In conjunction with a Professional Program Support (position) Survey, on September 18, 1996, DOC Survey Coordinator, Roberta Miller, conducted an on-site review of the position. During this process, appellant's reclassification was restructured and a new PD, drafted by Miller, was signed by the appellant and his supervisor in November 1996. This PD provides the following goals and time percentages:

A. Management of the day-to-day movement of inmates to and from and the placement of inmates within the OCJ (20%); B. assurance of compliance with administrative codes and DOC policies and procedures governing inmates (15%); C. monitoring and/or provision of services to inmates housed in OCJ (15%); D. liaison within DOC, with external agencies or with the general public as appropriate regarding DOC inmates (15%); E. liaison with OCJ staff to assure the appropriate handling of inmates housed in OCJ (10%); F. performance of administrative activities regarding the inmates housed on OCJ (10%); G. supervision of staff, i.e., Program Assistant (10%); H. and performance of supervisory functions in the absence of the Winnebago Correctional Center Superintendent and provision of back-up to the Assistant Superintendent (5%). (Letters added for reference purposes).

In May 1997, appellant's reclassification request was assigned to Miller. After an informal request by BPER for appellant to withdraw his request was rejected, an updated PD, signed May 7, 1997, was submitted to the Bureau of Personnel and Human Resources (BPHR). This PD provided the following goals and percentages¹:

A. development and implementation of facility-wide goals, policies and procedures for jail programs and selected services; maintain day-to-day movement of inmates to and from the OCJ; monitor placement of DOC inmates within the OCJ (20%); B. assurance of compliance with administrative codes and DOC policies and procedures governing inmates (15%); C. supervision of Program Services Staff at the OCJ and Winnebago Correctional Center (WCC) (15%); D. liaison with OCJ staff to assure the appropriate handling of inmates housed in OCJ (10%); E.

¹ The percentages are as indicated on the position description and do not add up to 100%.

serve as administrator on duty in the absence of Superintendent and Assistant Superintendent at the WCC and the OCJ (10%); F. performance of administrative activities regarding the inmates housed in OCJ (10%); G. liaison with DOC, external agencies or with the general public as appropriate regarding DOC inmates (10%); and H. management of Affirmative Action/Civil Rights Compliance plans within the areas of responsibility and compliance with federal and state laws (5%).

The applicable classification specifications in pertinent part are:

CORRECTIONS PROGRAM SUPERVISOR 1

Positions allocated to level 1 are, for a majority of time, responsible for planning, coordinating implementing and evaluating institution-wide specialized programs, services and activities (e.g. religious, community services, intern and volunteer services, recreation, records office, chaplaincy office, program review, including services and activities for the mentally ill, developmentally disabled, and drug and/or alcohol-dependent inmates. The positions provide direct supervision to a variety of professional and support staff including, social workers, institution registrars, chaplains, volunteers, recreation staff, clerical and librarians. Positions maintain liaison with other institution program areas (i.e. health services) as well as outside agencies in order to effectively monitor inmate needs, progress and ongoing status. Positions at this level report directly to the Deputy Warden or Warden, and may serve as the administrator on duty as assigned. As part of the management team, the positions develop, prepare and implement the mission, goals, policies, and procedures of the institution.

Representative Positions:

Program Coordinator, Columbia Correctional Institution: Plans, coordinates and administers institution-wide specialized programs, services and activities including the Reception and Orientation and Infirmary Units; develops and manages program budgets; supervises a variety of professional and support staff; serves as liaison with Department units and outside agencies regarding specialized programs, services and litigation issues; gathers, analyzes, and reviews information in preparation for litigation; coordinates internships, oversees the volunteer program, and performs various administrative and management duties.

Program Director, Oshkosh Correctional Institution: Develops, implements and evaluates goals, policies, and procedures for institution-wide specialized programs, services and activities for the mentally ill, developmentally disabled, and drug and/or alcohol-dependent inmates. Supervises and coordinates the word processing department, inmate records office, inmate litigation, chaplaincy office and program review. Coordinates internships; oversees the volunteer program; and performs various administrative and management duties such as participating as a member of the program review and disciplinary committees.

ADMINISTRATIVE ASSISTANT 4-SUPERVISOR

This is line supervisory work in a state agency or segment of a large state agency. Employees in this class have supervisory responsibilities over a large, moderately complex records processing and maintenance unit involving a variety of functions and having large clerical staffs with a number of subordinate levels of supervision, and/or supervise and perform staff services in records, accounting, personnel, budgeting or purchasing. Employees are responsible for interpretations of laws, rules and departmental policies in carrying out their assigned functions. Work is performed with a minimum of supervision which is received through staff conferences or general written or oral instructions. Employees are expected to carry out assigned functions with a considerable amount of initiative and independence, with the results of their work reviewed through oral and written reports and personal conferences.

The evidence does not support appellant's claim that respondent's denial of his reclassification request was incorrect. In order to be classified at the CPS1 level, appellant's position, for a majority of the time, must be responsible for planning, coordinating, implementing and evaluating institution-wide specialized programs, services and activities; and must provide direct supervision to a variety of professional and support staff. The evidence shows, however, that appellant's position is not responsible for programs of the size, scope, or variety contemplated by the CPS1 specifications; and supervises only one permanent support position, not a variety of professional and support staff.

Offered for comparison to appellant's position is the CPS1 position at the Columbia Correctional Institution held by Suzann DeHaan. The DeHaan PD, dated October 30, 1995, includes the following goals and time percentages:

A. Planning, coordination and administration of specialized programs and selected support services (25%); B. Supervision of staff (23%); C. Coordination of all institution litigation issues (25%); D. Development and implementation of the overall institution goals, budget, policy and procedure (20%); E. Health and safety activities (2%); and F. Management of the Affirmative Action/Civil Rights Compliance plans (5%).

The DeHaan position supervises ten staff, including Recreational Leaders, Librarian, Chaplains, Institutional Registrar, Officers and Program Assistants. Unlike appellant's position, this position is responsible for institution-wide specialized programs, services and activities of greater size, scope, and variety than those for which appellant's position is responsible; and supervises a variety of professional and support staff.

Appellant's allegations that the survey failed to consider the total responsibilities of his position and that no position analysis was performed is contrary to the evidence. Miller testified to an on-site visit at the Outagamie jail with appellant, his day-to-day supervisor, Nagle, and WCC Human Resource Director, Deirdre Morgan. While the focus of that review pertained to the survey, appellant's request for reclassification had been submitted prior to that meeting and appellant was provided an opportunity to identify, define and explain the duties of his position.

Appellant also argues that the Administrative Assistant 4-Supervisor (AA4-Sup) classification specification contains "no mention of supervision and discipline of inmates, security functions, staff training, and administrative responsibilities for other correctional facilities . . . duties I do daily." DOC Survey Coordinator Miller testified that groupings of positions in a variety of job areas are included in the AA series. In *Svenson v. DER*, 86-0136-PC, 7/22/87, the Commission recognized this particular aspect of the AA series.

Representative of the AA4-Sup classification is the position held by Germaine Youngwirth, located at Dodge Correctional Institution (DCI). The goals and time percentages of the Youngwirth position are:

[M]anagement of the combined record office operation at DCI (25%); implementation of record office procedures and liaison with various parties relating to inmate records (20%); supervision of DCI records staff (20%); provision of highly responsible administrative assistance to improve the effectiveness and efficiency in the institution's programs (20%); provision for the coordination of training for DCI Registrars, records office staff and/or Institution Supervisors (10%); and implementation of the AA/CRC plan within areas of responsibility and compliance with federal and state rights laws (5%). Ms. Youngwirth supervises three Institution Registrars, five Program Assistants and one Program Assistant Supervisor with twelve subordinates.

This position reports to the Treatment Director.

While Youngwirth's daily duties center on the management of the combined record office operation at DCI and appellant's duties on the management of inmates housed in the OCJ, the basic functions they perform are comparable in terms of scope, flexibility, initiative and independence.

The issue here is not, as appellant argues, the appropriateness of the AA4-Supervisor classification, but whether he has established that his position should be classified at the CPS1 level. *Ellingson v. DNR & DER*, 93-0057-PC, 5/28/98. The evidence presented does not support that conclusion. Therefore, the decision of respondent is affirmed.


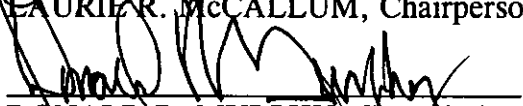
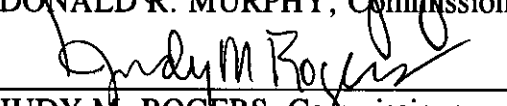
ORDER

The action of respondent is affirmed and this appeal is dismissed.

Dated: November 18, 1998.

STATE PERSONNEL COMMISSION

DRM:rjb:970115Adec2.2


LAURIE R. McCALLUM, Chairperson

DONALD R. MURPHY, Commissioner

JUDY M. ROGERS, Commissioner

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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