

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MATTHEW FREDRICKS, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0440

Case Type: PA

DECISION NO. 38935

Appearances:

Matthew Fredricks, 1808 Excalibur Drive, Janesville, Wisconsin and Kostas Korias, N982 Old 26 Rd., Fort Atkinson, Wisconsin, appearing on behalf of Mathew Fredricks.

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

On March 4, 2021, Matthew Fredricks filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for three days without just cause by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Examiner Peter Davis.

A telephone hearing was held on April 28, 2021 and the parties made oral argument at the conclusion of the hearing.

On April 30, 2021, Examiner Davis issued a Proposed Decision and Order affirming the 3-day suspension by DOC. On May 4, 2021, Fredricks filed objections to the Proposed Decision. DOC did not file a reply to the objections by the deadline given of May 10, 2021.

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

FINDINGS OF FACT

1. Matthew Fredricks, herein Fredricks, is employed by the State of Wisconsin Department of Corrections as a Probation and Parole Agent. He had permanent status in class at the time of the December 21, 2020 suspension.

2. Fredricks violated the terms of a Fraternalization Exemption by advocating on behalf of his brother regarding the terms of DOC supervision.

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 suspend Matthew Fredricks for three days.

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

ORDER

The three-day suspension of Matthew Fredricks is affirmed.

Issued at the City of Madison, Wisconsin, this 13th day of May, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Section 230.34(1)(a), Stats., states in pertinent part:

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.

Fredricks had permanent status in class at the time of his suspension and his appeal alleges that the suspension was not based on just cause.

The State has the burden of proof to establish that Fredricks 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).

The evidence clearly establishes that Fredricks violated the terms of the Fraternalism Exemption he sought and received from DOC allowing certain types of contact with his brother who was under DOC supervision. The Exemption expressly prohibited any attempt by Fredricks to influence the terms of his brother's supervision.¹ Fredricks did not obey that prohibition when he sought to change DOC plans for use of a GPS monitoring device. Therefore, the State has established that Fredricks was guilty of misconduct.

As to whether there was just cause for a three-day suspension, Fredricks contends the level of discipline is too severe. However, there can be no doubt that DOC has a strong interest in prohibiting any effort by one of its employees to influence the terms of a person's supervision. Particularly in light of the three-day suspension Fredricks had received in July 2019 for other misconduct, the Commission concludes there was just cause for a three-day suspension.

Issued at the City of Madison, Wisconsin, this 13th day of May, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

¹ Fredricks correctly notes that the Fraternalism Exemption allowed him to contact his supervisor if he had questions about fraternization. Fredricks points out that he did just that and asserts that his supervisor authorized him to contact the DOC employee who was supervising his brother's probation. DOC disputes that any such authorization occurred. Nonetheless, the Exemption expressly prohibited Fredricks from offering "advice or opinions" as to his brother's supervision. Fredricks violated that prohibition when he strenuously advocated on his brother's behalf as to a GPS issue. His conduct went well beyond asking questions about fraternization.