

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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BETH STONEY, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0485

Case Type: PA

DECISION NO. 39286

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Appearances:

Beth Stoney, 544 5<sup>th</sup> Street, Bloomington, Wisconsin, on her own behalf.

Nicole Rute, 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 August 20, 2021, Beth Stoney filed an appeal with the Wisconsin Employment Relations Commission asserting she had been discharged without just cause by the State of Wisconsin Department of Corrections (DOC).

A telephone hearing was held on October 11, 2021 by Commission Examiner Peter G. Davis. The parties made oral argument at the end of hearing. On November 30, 2021, Examiner Davis issued a Proposed Decision and Order affirming the discharge by DOC. Appellant filed an objection to the Proposed Decision and DOC filed a reply to Appellant's objection on December 10, 2021. On December 13, 2021, Appellant filed a response to DOC's reply.

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

**FINDINGS OF FACT**

1. Beth Stoney, herein Stoney, was employed by the State of Wisconsin Department of Corrections (DOC) as a Treatment Specialist 1 at the Prairie du Chien Correctional Institution. She had permanent status in class at the time of her discharge

2. Stoney had a social media relationship with a person she should have known was under the supervision of the DOC.

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 did have just cause within the meaning of Wis. Stat. § 230.34 (1)(a) to discharge Beth Stoney.

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

**ORDER**

The discharge of Beth Stoney by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 14<sup>th</sup> day of December, 2021.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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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.

Stoney had permanent status in class at the time of her discharge and her appeal alleges that the discharge was not based on just cause.

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

Section 230.34 (1)(a), Stats. provides that it is just cause for the State to discharge an employee without imposing progressive discipline for any of nine listed types of misconduct. Section 230.04 (13m), Stats. authorizes the Administrator of the Department of Administration, Division of Personnel Management to establish standards that allow the State to discharge employees without imposing progressive discipline for severe “inadequacy, unsuitability, or inferiority of . . . personal conduct or work performance . . .” Those 25 standards are listed in Chapter 410 the Wisconsin Human Resources Handbook at Section 410.030. One of those standards is “Failure to comply with written agency policies or procedures.”

Stoney is accused of violating the following DOC policy/work rule:

DOC Serious Misconduct #1: Fraternization with offenders, inmates, or juvenile offenders including, but not limited to: sharing personal information, providing or receiving goods or services, displaying favoritism, engaging in a personal relationship, failing to report solicitation by an offender, inmate, or juvenile offender.

The evidence establishes that Stoney began a social media relationship with a person she should have known was under DOC supervision. The relationship ended shortly after co-workers learned details of the person from Stoney and were justifiably suspicious.

It is clear that Stoney violated the DOC work rule quoted above and thus engaged in misconduct. While the prohibited relationship was brief, the preponderance of the evidence indicates that Stoney was likely to have had an on-going relationship with the predatory person

under DOC supervision had co-workers not intervened. DOC obviously has a very strong interest in having employees avoid relationships that have the potential to compromise the safety, security and integrity of DOC employees and institutions. Therefore, the Commission is satisfied that there was just cause to discharge Stoney rather than imposing lesser progressive discipline.

Issued at Madison, Wisconsin, this 14<sup>th</sup> day of December, 2021.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman