

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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IAN VAN ROSSUM, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0518

Case Type: PA

DECISION NO. 39457

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**Appearances:**

Ian Van Rossum, 431 Marion Road, Apt. 409, Oshkosh, Wisconsin, appearing on his own behalf.

David G. Makovec, 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 April 5, 2022, Ian Van Rossum filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for five days without just cause by the State of Wisconsin Department of Corrections (DOC).

A telephone hearing was held on June 21 and 23, 2022 by Commission Examiner Peter G. Davis. The parties filed written argument on June 28, 2022. Examiner Davis issued a Proposed Decision and Order on July 18, 2022, affirming the five-day suspension by DOC. The parties did not file objections by the deadline given of July 25, 2022.

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

**FINDINGS OF FACT**

1. Ian Van Rossum, herein Van Rossum, is employed by the State of Wisconsin Department of Corrections (DOC) as a Correctional Officer at the Oshkosh Correctional Institution (OSCI). He had permanent status in class at the time of his January 28, 2022 five-day suspension. He had previously received a one-day suspension on August 19, 2021, and a three-day suspension on September 16, 2021.

2. On October 29, 2021, Van Rossum sent the following email to all security staff at OSCI:

“Hello my fellow OSCI staff. I’m 90% sure I’ll be quitting this job. It’s not because I don’t enjoy working with any of you, but constant harassment from management and select Supervisors has led me to throw in the towel. Mental health is an important thing, and as a result of harassment not only has my mental health declined, but also my physical health. I try to come to work every day and make it an enjoyable work environment for everyone I work with. I try to do my job duties as required and as instructed. I try to not involve myself with creating staff drama. Even with that being said, management (supervisors) still go out of their way to continuously harass and target me. I’m sure there’s plenty of blue shirts that I’ve vented to about this for the past couple of years that would be able to attest to this. I thought it would be done when Cpt. Thompson left. I didn’t want to mess with his retirement, so even when he called me to retaliate towards a request to speak to former Warden Jess about his conduct and stated over the phone, “if I wasn’t afraid of being fired I’d tell you how I really feel.” I didn’t report it. I endured, and I continued to endure. Unfortunately, Cpt. Booker (Thompson’s Lt. at the time) has taken up his mantle. She routinely has gone out of her way to harass me at work. I can’t come into work without being stressed or feeling uncomfortable. Various patrols informing me that her and Cpt. Thompson had me blown up on cameras in their office. Lying to other staff and twisting scenarios to create a negative perception of me that I eventually hear about. Asking other staff members what I spoke to them about. Calling other staff members telling them to watch me and report back to her if anything happens in regards to my conduct. This constant watchful eye is draining. This is the type of harassment that leads staff members to quit. This is the type of harassment that makes staff members uncomfortable at work. This is the type of harassment that leads to depression and anxiety. This is also the type of behavior that goes unchecked in the supervisor’s office. So once again, I truly did enjoy working with a large majority of staff here at OSCI. Unfortunately though, I don’t think it’s working out. Even if I do “come back” I’m sure this email will result in some type of discipline, so there’s that too. Anyways, I’d like to cap this email off by extending my gratitude and considerations toward everyone who I’ve formed a relationship here with at OSCI. Goodbye.”

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 suspend Ian Van Rossum for five days.

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

**ORDER**

The five-day suspension of Ian Van Rossum by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 2<sup>nd</sup> day of August, 2022.

**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:

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.

Van Rossum 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 Van Rossum 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).

It is undisputed that Van Rossum sent the email which prompted his suspension. He argues that the email did not constitute misconduct because his claims of harassment and retaliation are true and prior attempts to use the chain of command had not produced positive results. Assuming for the sake of argument that Van Rossum is correct in these regards, sending this blast email to all members of the security staff at a para-military correctional facility is misconduct. The email's content had the potential to undermine the trust and morale needed to safely operate a secure detention facility.

As to the whether his misconduct provided just cause for a five-day suspension, Van Rossum had recently received a one-day and a three-day suspension. In that context, a five-day suspension is the next step in the standard DOC progressive discipline and the Commission concludes that there was just cause for a five-day suspension. Therefore, the suspension is affirmed.

Issued at Madison, Wisconsin, this 2<sup>nd</sup> day of August, 2022.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman