

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

STACEY STEGER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0634

Case Type: PA

DECISION NO. 40367-A

Appearances:

Anthony Gunderson, 830 Wilcox Street, Waupun, Wisconsin, appearing on behalf of Stacey Steger.

David Makovec, Attorney, 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 April 5, 2024, Stacey Steger (Steger) filed an appeal with the Wisconsin Employment Relations Commission asserting that she had been suspended for three days without just cause by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

On May 16, 2024, a hearing was held at Waupun Correctional Institution (WCI) by Examiner Lisiecki. The parties made oral closing arguments at the end of the hearing. On June 5, 2024, Examiner Lisiecki issued a Proposed Decision and Order affirming the 3-day suspension of Steger by the DOC. Steger filed objections to the Proposed Decision on June 7, 2024, and the DOC filed a response on August 6, 2024.

On July 23, 2024, the Commission advised the parties that it was reopening the record. On August 27, 2024, a supplemental telephone hearing was held by Examiner Lisiecki. Steger submitted a written closing argument on September 6, 2024. The DOC did not submit a written closing argument.

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

FINDINGS OF FACT

1. Stacey Steger (Steger) is employed by the State of Wisconsin Department of Corrections (DOC), as a correctional officer at Waupun Correctional Institution (WCI). She had permanent status in class when she was suspended.

2. On February 12, 2023, Steger was arrested for assaulting another WCI employee while both were off duty.

3. Following an investigation, the DOC suspended Steger for three days for engaging in outside activities which may impair the employee's ability to perform her duties as an employee of the state, and off-duty illegal behavior where a substantial relationship exists which adversely affects the employee's ability to perform the duties of the position.

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 Stacey Steger 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 Stacey Steger by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 4th day of November 2024.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Section 230.34(1)(a), Stats., provides in pertinent part the following as to certain employees of the State of Wisconsin:

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.

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

The State has the burden of proof to establish that Steger was guilty of the alleged misconduct and that 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).

Steger is employed as a correctional officer at Waupun Correctional Institution (WCI). On Sunday, February 12, 2023, Steger was out at a bar with her friends when she received news that her boyfriend, WCI employee T.N., had been seen at a hockey game with another woman, WCI employee C.S. Steger and her friends went to confront T.N. and C.S. It is uncontested that, upon arriving at the hockey game, Steger physically attacked T.N. and C.S. C.S. testified that Steger ripped her hair out, attempted to choke her, and called her profane names. Steger was charged with battery and disorderly conduct. C.S. later took out a restraining order against Steger.

Steger's off-duty assault of a coworker constituted off-duty illegal behavior, and this assault adversely affected her ability to perform her duties as a correctional officer. Thus, it is clear that Steger engaged in misconduct.

Turning to the issue of whether her misconduct provided just cause for a three-day suspension, the evidence reflects that Steger had a clean disciplinary record and that the standard DOC disciplinary progression would have yielded a one-day suspension. However, DOC persuasively argues that the severity of Steger's attack justified a one level skip in the standard progression to a three-day suspension. Therefore, the Commission concludes that there was just cause for a three-day suspension and hereby affirms said suspension.¹

¹Steger takes issue with being placed on a lengthy unpaid leave while DOC investigated the matter and asserts that other similarly situated employees have only been transferred. Steger has not provided any persuasive jurisdictional basis for the Commission to review the merits of this contention.

Issued at the City of Madison, Wisconsin, this 4th day of November 2024.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman