

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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ALEXANDER KOSTROMIN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0667

Case Type: PA

DECISION NO. 40698

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Appearances:

Alexander Kostromin, E25555 County Road M, Augusta, Wisconsin, appearing on his own behalf.

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 August 26, 2024, Alexander Kostromin filed an appeal with the Wisconsin Employment Relations Commission asserting he had been discharged without just cause by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

A telephone hearing was held on October 23, 2024, by Examiner Lisiecki. The parties made oral closing arguments at the end of the hearing. On November 14, 2024, Examiner Lisiecki issued a Proposed Decision and Order affirming the discharge of Alexander Kostromin by the DOC. No objections to the Proposed Decision were filed by the parties by the given deadline of November 19, 2024.

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

**FINDINGS OF FACT**

1. Alexander Kostromin (Kostromin) was employed by the State of Wisconsin Department of Corrections (DOC), as a correctional officer at Chippewa Valley Correctional Treatment Facility (CVCTF). He had permanent status in class when he was discharged.

2. On May 7, 2024, Kostromin called an inmate “foolish” and “childish.” He made other sarcastic comments to the inmate.

3. On May 10, 2024, Kostromin told a supervisor that he had just called inmates “stupid.” When his supervisor told him that he should not speak to inmates that way, Kostromin replied that if inmates acted stupidly, he would call them stupid.

4. Following an investigation, the DOC discharged Kostromin for harassing, demeaning, treating discourteously, and bullying.

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 discharge Alexander Kostromin.

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

### **ORDER**

The discharge of Alexander Kostromin by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 5<sup>th</sup> day of December 2024.

**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 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.

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

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

Kostromin was employed as a correctional officer at Chippewa Valley Correctional Treatment Facility (CVCTF). On May 7, 2024, Kostromin got into an altercation with inmate C.R., who pushed an elevator alarm for no reason. Correctional officer Alec Olson testified that Kostromin told C.R. his behavior was “foolish” and “childish.” C.R. asked Kostromin whether he (Kostromin) was seriously calling C.R. a child, to which Kostromin replied, “The minute you hit the emergency button in the elevator you became one.” C.R. left, then returned and told Kostromin to “Go fuck himself,” to which Kostromin replied, “You’re not my type.” C.R. then said he would write Kostromin up, to which Kostromin retorted “At least spell my name right.” When C.R. told his social worker, Caitlin Hanson, about this interaction, she asked C.R. to record his recollection in writing and reported Kostromin.

Kostromin argues that he never directed profanity at C.R., and therefore there was nothing inappropriate about this interaction. However, Kostromin’s comments are clearly discourteous and demeaning: comparing C.R. to a child and calling him “foolish.” Kostromin also made several sarcastic replies to C.R.’s angry remarks. CVCTF Warden Christine Sutor testified that employees are expected to communicate respectfully and professionally at all times, and to attempt to de-escalate tense interactions with inmates. Kostromin’s remarks to C.R. clearly violate DOC Work Rule 14.

On May 10, 2024, Kostromin entered the officers’ station, where Captain Gregory Clark and Sergeant Katie Ryba-Gindt were stationed. Kostromin told them that he had just “handled” an interaction with inmates and said he had asked inmates whether they were “stupid.” Clark – Kostromin’s supervisor – told Kostromin that he shouldn’t say things like that to inmates, but

Kostromin replied that if inmates were acting stupidly, he would call them stupid. Clark again told Kostromin that he should not speak to inmates that way and asked him how it would look if he had to write up a conduct report. Kostromin made a comment about Clark sending him back to Stanley Correctional Institution.

Kostromin denies calling inmates stupid; he argues that he only called the inmates stupid once he was in the officers' station. However, although their recollections of the exact wording differ, both Clark and Ryba-Gindt testified that Kostromin reported having just called inmates stupid. Kostromin argues that he was joking; however, both Clark and Ryba-Gindt testified that Kostromin's tone was matter-of-fact. Kostromin further argues that he made his comments in the officers' station, where he could not be overheard by inmates, and therefore his comments were not inappropriate. However, the issue was not whether inmates could overhear Kostromin in the officers' station, but whether he made inappropriate remarks directly to them.

Kostromin further argues that employees have called inmates much worse things than "stupid," especially behind closed doors. However, Kostromin does not provide any examples of employees who have made similar comments but have not received similar discipline. Further, Clark and Ryba-Gindt both testified that Kostromin's comments were unusual and inappropriate.

Warden Sutor testified that these two instances demonstrated a pattern of Kostromin using unprofessional, demeaning, and discourteous language towards inmates in violation of DOC Work Rule 14. Kostromin's comments also constituted a security risk for the institution, since his disrespectful comments escalated his interactions with inmates.

Kostromin was demeaning, discourteous, and bullying when he called inmates foolish, childish, and stupid on May 7 and May 10, 2024. The State followed progressive discipline, following Kostromin's previous five-day suspension with this discharge. The discharge is therefore affirmed.

Issued at the City of Madison, Wisconsin, this 5<sup>th</sup> day of December 2024.

## **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman