

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MICHAEL LUENEBURG, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0674

Case Type: PA

DECISION NO. 40719

Appearances:

Michael Lueneburg, 688 Hamburg Street, Ripon, Wisconsin 54971, appearing on his own behalf.

Attorney Nicole Porter, 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 September 18, 2024, Michael Lueneburg 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).

A zoom hearing was held on December 9, 2024, by Commission Examiner Peter G. Davis. The parties made oral closing arguments at the end of the hearing. On January 2, 2025, Examiner Davis issued a Proposed Decision and Order, affirming the discharge of Michael Lueneburg by the DOC. The parties did not file objections to the Proposed Decision by the given deadline of January 7, 2025.

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

FINDINGS OF FACT

1. Michael Lueneburg, herein Lueneburg, was employed by the State of Wisconsin Department of Corrections as a Correctional Officer at the Waupun Correctional Institution. He had permanent status in class at the time of his discharge.

2. On February 15, 2024, Lueneburg failed to make eight of 32 mandatory cell checks on an inmate.
3. Lueneburg subsequently falsified records to indicate that he performed the February 2024 cell checks.

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 Michael Lueneburg.

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

ORDER

The discharge of Michael Lueneburg by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 16th day of January 2025.

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.

Lueneburg 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 Lueneburg 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).

Lueneburg admits that he failed to make certain mandatory cell checks and that he subsequently falsified records to indicate that the checks were performed.

He does assert that he falsified the records at the suggestion or direction of another employee. That employee denies making any such suggestion or direction. As DOC persuasively argues, even if such a suggestion or direction occurred, Lueneburg knew or should have known that he was nonetheless engaging in misconduct by falsifying records.

Given the foregoing, the Commission concludes that Lueneburg engaged in two acts of misconduct.

Turning to the issue of whether those two acts of misconduct establish just cause for discharge, the Commission concludes that just cause for discharge exists. Although Lueneburg had no discipline on his record at the time of his discharge, Wis. Stat. § 230.34 (1)(a)5. reflects a legislative intent that falsifying records is one of the types of misconduct that is so serious that it can justify skipping progressive discipline and proceeding directly to discharge. The combination of falsifying records and failing to perform cell checks satisfies the Commission that there is just cause for discharge.

Therefore, the discharge of Lueneburg is affirmed.

Issued at Madison, Wisconsin, this 16th day of January 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman