

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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PRENTICE BLACK, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0706

Case Type: PA

DECISION NO. 40773

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Appearances:

Prentice Black, 4506 17th Avenue, Kenosha, 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 December 16, 2024, Prentice Black 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 Anfin J. Wise.

A zoom hearing was held on March 12 and 13, 2025, by Examiner Wise. The parties made oral argument at the conclusion of the hearing. On March 17, 2025, Examiner Wise issued a Proposed Decision, rejecting the discharge of Prentice Black by the DOC and reinstating him with interest. DOC filed objections to the Proposed Decision on March 21, 2025. Black did not file a response to the objections and the matter became ripe for Commission consideration on March 27, 2025.

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

### **FINDINGS OF FACT**

1. Prentice Black (Black), was employed by the State of Wisconsin Department of Corrections (DOC) as a Sergeant at Racine Correctional Institution (RCI). He had permanent status in class at the time of his discharge.

2. RCI is a medium-security correctional facility located in Sturtevant, Wisconsin, operated by DOC, a state agency of the State of Wisconsin.

3. On June 9, 2024, Black was stopped by the Kenosha Police Department for suspected speeding in an unposted residential neighborhood.

4. Black was subsequently arrested for allegations of operating a vehicle while intoxicated and obstructing or resisting an officer.

5. During the arrest, Black told the arresting officer on one occasion that he worked for the State. The officer responded by asking him where he worked. Black then responded “at RCI.” Black did not make those comments in an effort to influence the officer.

6. On October 30, 2024, DOC discharged Black. At the time of discharge, the alleged traffic violations and other charges were not yet resolved.

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 not have just cause within the meaning of Wis. Stat. § 230.34 (1)(a), to discharge Prentice Black.

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

**ORDER**

The discharge of Prentice Black by the State of Wisconsin Department of Corrections is rejected. DOC shall reinstate Black and make him whole with interest.<sup>1</sup>

Issued at Madison, Wisconsin, this 14<sup>th</sup> day of April 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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<sup>1</sup> See Wis. Admin. Code § ERC 94.07.

**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.

Black 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 Black 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 Black was stopped on June 9, 2024, by the Kenosha Police Department (KPD) for suspected speeding in an unposted residential neighborhood. The stop occurred in Black's driveway at his home. It appears he had already stepped out of his vehicle by the time he noticed the lights from the officer's squad who was conducting the traffic stop. Officer S.G. instantly requested backup assistance based on Black having exited his vehicle. An additional three squad cars from the KPD arrived almost immediately. Seeing the additional squad cars and four or five officers arrive on scene, Black questioned the heavy police response, given the initial reason for the stop was for allegedly speeding over 25mph. Black was arguably upset but generally cooperative. During the interaction with the officers, Black turned towards his vehicle, in what the officers perceived as an attempt to re-enter his vehicle. This prompted the officers to instantaneously detain Black. The officers placed handcuffs on him and escorted Black to the back seat of Officer S.G.'s squad.

While Black was sitting in the squad, the officers searched his vehicle. During the search, an officer located Black's legal handgun. Dispatch then confirmed Black's valid Wisconsin Concealed Carry Weapons (CCW) License. After the search and based on the officers' observations, KPD arrested Black for allegations of operating a vehicle while intoxicated and obstructing or resisting an officer. Officer S.G. proceeded to transport Black to a local hospital for a blood draw to check for intoxicants. While being transported, Black stated he worked for the State. Officer S.G. wanted some clarification and asked Black where he worked. Black then responded "at RCI."

Black contends that he told Officer S.G. he worked for the State to let him know he was not a criminal and that Black wanted the officer to act professionally towards him. In his interview during the investigation, Black's comments hint at perceptions of racism within the Kenosha

Police Department, which, while debatable as to accuracy, certainly could have that perception given recent history in that City.<sup>2</sup>

DOC contends that both his statement that he worked for the State, and his reply to the question of where he worked, when he answered he worked at RCI, were an attempt to receive preferential treatment and avoid arrest.

Here, the Commission recognizes that Black's comment could create an inference that he was attempting to influence the arresting officer. Black denies such intent. In the context of the substantial police response to an alleged speeding violation, the search of his vehicle, his subsequent arrest, and the fact that Black is an African-American man, the Commission is persuaded that Black's comment was to inform the officer that he was not a criminal, and to treat him professionally. We therefore conclude that Black's statement that he worked for the State, and his subsequent response as to where he worked based on the inquiry posed by Officer S.G., was not an attempt to influence the officer to give him some sort of special consideration that would influence the outcome of the arrest.

In their objections to the Proposed Decision of the Commission, DOC highlights that the transporting officer should be given greater credibility as an uninterested party and, as such WERC should be controlled by Officer S.G.'s view of what Black's intent behind his statement was. Weight and credibility of evidence is a matter for the Commission to determine and will be controlling upon subsequent review so long as such determination is reasonable. In this instance, Black's testimony as to his intent is further supported by when the conversation took place. When police initially arrived at Black's residence, a total of four squad cars arrived. The conversation took place after this, during transport to the police station when he was already detained. Most anyone, but especially a law enforcement adjacent employee such as a correctional employee, would know that the genie had been let out of the bottle at this point. If there could plausibly be a period to get preferential treatment and get a "pass", that point has long eclipsed when you have at least four officers at a scene, multiple body-cams, a call for backup, a search warrant for withdrawing blood following a refusal for a breathalyzer test, and other documented and non-retractable elements of processing an arrest. Given how deep into the process Black was at the time of the exchange, it is reasonable to conclude that Black was simply declaring that he was not a threat to the officer and was trying to be treated with dignity in the process. His arrest at this point was a foregone conclusion that no reasonable person could think would be, or could be, retracted, regardless of whether they were a Correctional Officer at RCI or the Attorney General himself.

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<sup>2</sup> "Maybe not for them, but for me being upset because I'm thinking I've been illegally stopped and searched. Yes, I believe that's a normal response from any human being. Who believes they were stopped illegally or just from a cop's assumption. We have too much of that going on, so, and Kenosha is very bad with that." Employer Ex. 7, pg. 7.

Given the foregoing, it is concluded that there was not just cause for Black's discharge, and it is therefore rejected.<sup>3</sup> Black shall be reinstated and made whole including interest consistent with the outcome of this order.

Issued at Madison, Wisconsin, this 14<sup>th</sup> day of April 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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<sup>3</sup> It is noted that Black has worked for the DOC since 2001, and did not have a prior disciplinary record relevant to progressive discipline in this matter. He was last issued discipline in 2015, related to an attendance issue. Additionally, at the time of discharge, the allegations arising from the June 9, 2024, traffic stop had not yet been resolved.