

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

KATIE L. BLAHA, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0711

Case Type: PA

DECISION NO. 40860

Appearances:

Emma Knatterud-Johnson, Attorney, Hawks Quindel, S.C., 409 E. Main Street, P.O. Box 2155, Madison, Wisconsin, appearing on behalf of Katie Blaha.

Nicole Porter, 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 January 2, 2025, Katie Blaha filed an appeal with the Wisconsin Employment Relations Commission asserting that she 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 March 4, 2025, by Examiner Lisiecki. The parties submitted written closing arguments on March 17, 2025. On March 26, 2025, Examiner Lisiecki issued a Proposed Decision modifying the discharge of Katie Blaha to a three-day suspension and ordered that Blaha be reinstated and made whole with interest. DOC filed objections to the Proposed Decision on March 31, 2024. Blaha filed a response to the objections on April 4, 2025, and the matter became ripe for Commission consideration.

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

FINDINGS OF FACT

1. Katie Blaha (Blaha) was employed by the State of Wisconsin Department of Corrections (DOC), as a correctional officer at New Lisbon Correctional Institution (NLCI). She had permanent status in class when she was discharged.

2. On April 29, 2024, Blaha, who already had an approved general fraternization exception for former inmate M.G., submitted an exception request to initiate a romantic relationship following the suggestion of her supervisor. M.G. was under the supervision of the DOC Division of Community Corrections. The exception request was denied on June 18, 2024, and the prior, general fraternization exception was revoked.

3. After the denial of the romantic fraternization exception request, Blaha asked for permission from Warden Cromwell and Deputy Warden Thomas to meet one last time with M.G.. Neither Cromwell nor Thomas could recall, under oath, whether they granted permission for this meeting. Blaha had permission to meet with M.G. and did so.

4. After a co-worker reported a Blaha Facebook post regarding M.G. to DOC, she was suspended and an investigation was begun. Blaha had two subsequent incidental encounters with M.G. while she was suspended. She reported those contacts during an investigative interview on August 19, 2024. She had no scheduled shifts after being suspended.

5. Following the investigation referenced above, the DOC discharged Blaha for allegedly violating the DOC fraternization policy.

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 Katie Blaha.

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

ORDER

The discharge of Katie Blaha by the State of Wisconsin Department of Corrections is rejected and she shall be reinstated and made whole with interest.¹

Issued at Madison, Wisconsin, this 29th day of April 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

¹ See Wis. Admin. Code § ERC 94.07.

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.

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

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

DISCUSSION

Blaha was employed as a correctional officer at New Lisbon Correctional Institution (NLCI). Blaha had an approved fraternization exception for her friendship with M.G., an inmate at another facility. M.G. was close family friend prior to his incarceration, dating back at least 10 years. In March 2024, when M.G. was released from prison under the supervision of the Division of Community Corrections, Blaha submitted an updated fraternization exception request, which was also approved.

Blaha grew concerned about what other DOC staff might think or say regarding her friendship with M.G., and she asked her supervisor, Captain Best, about the proper way to proceed. Best recommended that Blaha submit a romantic fraternization exception request to protect herself against any allegations of inappropriate conduct. On April 29, 2024, Blaha submitted another fraternization exception request to enter into a romantic relationship with M.G. The new request was denied by Warden Cromwell on June 18, 2024. Blaha had a meeting with Warden Cromwell and Deputy Warden Thomas regarding the denial. During this meeting, she requested permission to have one last meeting with M.G. to explain why they could no longer have any contact. As discussed below, the Commission concludes she received permission to meet M.G. and she did so.

Blaha, upset over the denial, made a social media post.² The post was vague but included pictures of her and M.G., presumably taken before her fraternization exception request was revoked. On June 22, 2024, a co-worker saw this post and informed the DOC. The DOC

² It is noted that the social media post was not mentioned in the discharge letter and thus can not be the basis for any of the discipline received by Blaha.

subsequently placed Blaha on administrative leave and conducted an investigation into her conduct. While on administrative leave, Blaha had two incidental encounters with M.G., both of which she mitigated by leaving immediately. Blaha reported these contacts during her investigative interview on August 19, 2024.

On October 29, the DOC discharged Blaha. The discharge letter states:

This letter will serve as an official notification that you are being terminated from your position as Correctional Officer with the Department of Corrections, Division of Adult Institutions, at New Lisbon Correctional Institution, effective 10/28/2024. This action is being taken because you are in violation of the following Department of Corrections Work rules:

- ☐ WR 2: Failure to comply with written agency policies or procedures
- ☐ Serious Misconduct: Fraternization with offenders, inmates, or juvenile offenders including, but not limited to: sharing personal information, providing or receiving goods or services, displaying favoritism, engaging in a personal relationship, failing to report solicitation by an offender, inmate, or juvenile offender.
- ☐ Executive Directive 16: Fraternization Policy

Specifically, on 4/29/2024, you submitted a fraternization exemption request to enter into a romantic/dating relationship with a person who was under the supervision of Division of Community Corrections. This request was denied on 6/18/2024. You admitted that you continued to have contact with this person after your fraternization exemption request was denied which you failed to report according to Executive Directive #16 Fraternization Policy. You reported having contact with this person while on an out of state vacation on or between 6/29/2024 and 7/5/2024, as well as in-person incidental contacts on two occasions while under investigation.

The discharge letter states the conduct that DOC must prove in order for the discharge to be sustained. Thus, DOC must prove Blaha violated DOC fraternization policies by: 1) having unapproved contact with M.G. and/ or 2) violating the DOC's reporting standards by failing to report incidental contacts with M.G. while on administrative leave.

Addressing the alleged contact while on an out-of-state vacation, we look to the discharge letter and note the gross distortion of Blaha's interview answers. Although the DOC argues that Blaha admitted to having continued contact with M.G. while on vacation, that conclusion is not supported by Blaha's interview responses.

Q: So when was the last time that you spoke to (M.G.) or had contact with him?

A: Been a while. I don't know, maybe a few weeks but I have never seen him, like, in person. It's been, like, limited. Like, I don't really ask him much of anything because we're kind of waiting to see what happens with this.

Q: So would it be fair to say like June or July 2024?

A: June into July. I know when I went on vacation, like that was a disaster, because I said that he was supposed to come with me. I had contact with him during that time, but otherwise it's been very limited. Again, I don't want to get him in trouble and he doesn't want to get me in trouble, so we're just following the process. *See Exhibit R-7, pg. 5-6.*

Blaha is responding to the question of whether she had contact with M.G. in June or July. She is stating that she had contact with M.G. in June or July, not that she had contact with him while on vacation, as the DOC argues. Since the DOC did not clarify, we are limited to the answer that was given.

Blaha is likely referring to her "final meeting" with M.G., the encounter she contends she was given permission to have to explain the situation to M.G. The DOC argues that Blaha was prohibited from further contact with M.G. after her exception request was denied and was never given permission to meet with M.G. However, after consultation with the Hearing Examiner as to the demeanor of the witnesses, as well as an independent review of the hearing record by the Commission, Blaha's version of events is found to be more credible. When asked in the hearing whether they had given permission to Blaha to have this last meeting with M.G., both Warden Cromwell and Deputy Warden Thomas testified that they did not recall. Their inability to recollect is insufficient to establish that they did not give permission. Therefore, they leave the door open as to whether Blaha's version of events is correct. Blaha is a rule-follower who has attempted to do everything by the book, as shown by her initial exception requests, seeking direction from her supervisors, and otherwise keeping non-incidental separation from M.G. Blaha still attempted to conform to the DOC's expectations even after she was discharged.³ It is not credible that she would choose to meet with M.G. without permission. Since the Warden and Deputy Warden did not explicitly testify that permission was denied, Blaha's account is more credible.

Lastly, the DOC argues that Blaha's failure to report the two subsequent incidental encounters she had with M.G. warrants discipline. The parties seem to agree that these encounters were incidental and unplanned. Further, Blaha testified that she took steps to mitigate the contact by immediately departing without interacting with M.G. However, the discharge letter – as well as Deputy Warden Thomas – stated that Blaha violated DOC Executive Directive #16 – Fraternization Policy by failing to report those contacts.

Deputy Warden Thomas testified about Executive Directive #16, VIII (B), which states:

³ During her testimony at the hearing, Blaha testified that she has continued to avoid interaction with M.G., did not enter into a romantic relationship with him, and blocked him on social media, even after she no longer had any obligation to follow DOC policy after having been discharged.

B) Employees shall report any unanticipated, non-employer directed contacts with individuals listed under V (A) by submitting form DOC 2270 --- Fraternalization Policy Exception Request. This form must be submitted *by the next scheduled shift following the contact*. Such contacts must be kept brief and professional. (Emphasis added).

The DOC did not argue that these encounters were intentional or inappropriate. Instead, the DOC argues that they were not properly reported. Blaha was under administrative suspension pending investigation at the time of the two encounters. Therefore, she did not have a next scheduled shift to report the contacts. The next contact she had with the DOC was her investigatory interview, where she reported the encounters. Although best practice might have been calling in to self-report the encounters while on leave, that is not required by the DOC's policy. Thus, Blaha did not violate the policy by failing to report the two incidental encounters.

The DOC failed to prove that Blaha had contact with M.G. while on an out-of-state vacation. Blaha credibly testified that she was given permission for a final meeting with M.G. after her exception request was revoked, and the DOC was unable to show that Blaha's supervisors did not grant her permission for this meeting. Since Blaha was on administrative leave, she did not have a next scheduled shift. Therefore, she was not in violation of the DOC's reporting policy regarding unanticipated or incidental contacts. Based on the above reasoning, Blaha did not violate the DOC's fraternization policy, and there was not just cause for her discipline. Blaha shall be reinstated with back pay and made whole in all regards.

As to the Appellant's request for reimbursement of attorney's fees, Appellant is directed to provide a formal motion with the requisite argument and itemized documentation of fees, pursuant to the directives and time frame specified in Wis. Stat. § 227.485 (5) of 30 days, with Respondent submitting a reply within 15 working days thereafter.

Issued at the City of Madison, Wisconsin, this 29th day of April 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman