

STATE OF WISCONSIN CIRCUIT COURT DODGE COUNTY

Heather Krueger,

Petitioner,

WERC Decision 40882-A

vs.

Case No.: 25 CV-332

State of Wisconsin
Employment Relations Commission,

FILED

Respondent.

APR 09 2026

Clerk of Circuit Court
Dodge County, WI

**DECISION AND ORDER ON
CHAPTER 227 JUDICIAL REVIEW**

This is a petition by Heather Krueger (hereinafter “Krueger”) for Ch. 227 judicial review of a May 27, 2025 decision of the State of Wisconsin Employment Relations Commission (hereinafter “WERC”) which found the Wisconsin Department of Corrections (hereinafter “DOC”) terminated Krueger’s employment for just cause for violation of departmental work rules. Krueger had worked for the DOC as a correctional officer. Krueger’s petition to this Court was filed June 25, 2025.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

The factual background of this dispute is set forth in the briefs, the petition for review, and the May 27, 2025 WERC

decision, as well as information in the record.

Krueger worked for the DOC as a Correctional Officer until her termination on November 20, 2024. On January 25, 2025, Krueger filed an appeal with WERC, contesting her termination from the DOC.

The DOC terminated Krueger in part for allegedly violating Executive Directive #50 by viewing confidential, sensitive, and nonpublic information about three inmates that were not at her institution. Executive Directive #50 regulates employee usage of the DOC's technology and information systems, in this case the Wisconsin Integrated Corrections System (hereinafter "WICS"). This directive permits employees to access WICS for business purposes but not for non-business purposes without authorization. Krueger has admitted that she accessed this information. Various arguments are presented as to whether Krueger had a legitimate business purpose for accessing the information.

WERC determined that Krueger violated Executive Directive # 50 by "reviewing incident reports, conduct reports, bed assignments, risk assessments, and medical classifications for deceased inmates at other institutions."

According to WERC, “ ‘business use’ clearly means that the use is required in the course of the employee’s job duties and responsibilities.” Krueger’s use was found not necessary to perform her job duties or responsibilities, because these inmates were not housed at the institution where she worked, and they were deceased. WERC did not find credible Krueger’s claim that she accessed this information to learn how to write better reports. She had been working for DOC for five years and WERC found she was searching WICS out of curiosity with no employment purposes. Krueger admitted to doing these searches out of curiosity.

The DOC also terminated Krueger for violating Executive Directive #87 which prohibits employees from sharing “confidential, sensitive, private, or non-public information” – including protected health information or personally identifiable information – “about the DOC, its employees, or adults and youth in its care.” The policy also prohibits posting anything which has the potential to “negatively affect the work environment, impair the DOC's ability to carry out its mission, impair relationships with DOC partners, or impair the public trust.”

WERC considered whether Petitioner's sharing of nonpublic, confidential, and sensitive information on her social media profile constituted a violation of Executive Directive #87.

Krueger posted numerous comments on social media about inmates and internal functioning of the DOC, claiming in the WERC proceedings that this was already public. WERC nonetheless found Krueger violated Executive Directive # 87 because the information was confidential in nature and this "showed a serious lack of judgment, and posting sensitive information on social media erodes trust from inmates and coworkers." Krueger also admitted that some of the information was not previously released, which implies she used information from WICS searches to formulate her social media comments. WERC noted Krueger had a prior three-day suspension, and the seriousness of her misconduct justified skipping a five-day suspension and proceeding to discharge.

Krueger's position includes arguments that Krueger did not violate either directive, there was no harm to the employer, and DOC improperly changed its reasoning for termination.

STANDARD OF REVIEW

The Circuit Court's decision in a judicial review proceeding is based on record established before the agency that made challenged decision. Wis. Stats. § 227.57. the Court must affirm the agency unless it finds grounds to do otherwise under § 227.57, which means the petitioner must prove the agency's decision is not supported by substantial evidence in the record, or there was a legal or procedural error. *Id.* The burden is on the party seeking to overturn the agency action, not on the agency to justify its actions. *City of LaCrosse v. DNR*, 120 Wis.2d 168, 178 (1984).

Scope of review on certiorari is limited to determining whether the board kept within its jurisdiction; whether it acted according to law; whether its action was arbitrary, oppressive or unreasonable and represented its will and not its judgment; and whether the evidence was such that it might reasonably make the order or determination in question. *Coleman v. Percy*, 96 Wis.2d 578 (1980).

While courts no longer afford deference to an agency's view of the law, courts are apparently to afford "due weight" to an agency's view of the law where, as here, it is entrusted to

administer a technical and complex statutory program. *Tetra Tech et al. v. Wisconsin Department of Revenue*, 382 Wis. 2d 496, 561 (2018).

ANALYSIS

1. There is substantial evidence that Krueger violated Executive Directive # 50.

The directive pertaining to use of the WICS system is clear. Executive Directive #50 governs the appropriate uses of the DOC's technology and information systems. It permits employees to access systems like WICS for business purposes and prohibits use for non-business purposes without authorization.

Krueger was found to have used WICS to research an inmate's bed assignments and conduct reports, this search taking place *after* the inmate had died. Krueger argued to WERC that she did so to "write better incident reports." A finding that she was not credible on this assertion is quite reasonable. Krueger fails to articulate how accessing this confidential information about deceased inmates at another institution in any way helped her to write better incident reports. (Dkt. 22 at 6, R. at 306.) In her

investigatory interview, she conceded she was “seeking which one of my friends were involved” in the inmates’ deaths and admitted there was no business purpose to reviewing these reports, after having “business purpose” defined for her as “looking at [their] WICS information because its job related.” (Dkt. 22 at 6, R. at 306.)

Krueger fails to show how WERC erred in concluding that she violated Executive Directive # 50.

2. There was substantial evidence for WERC to conclude that Krueger was guilty of violating Executive Directive #87.

Executive Directive #87 prohibits employees from sharing “confidential, sensitive, private, or non-public information” – including protected health information or personally identifiable information – “about the DOC, its employees, or adults and youth in its care.” Executive Directive # 87 also prohibits posting anything which has the potential to “negatively affect the work environment, impair the DOC’s ability to carry out its mission, impair relationships with DOC partners, or impair the public trust.” (Dkt. 24 at 4-5, R. at 344-345.)

Krueger shared a fair amount of DOC-related information on social media. This includes social media posts such as;

" ... As far as the [redacted] If there was, I know for a fact they would have been addressed. He was [redacted] to assault staff 3 days before passing [redacted]. I can also verify that the whole time he was in our prison system, his mother nor anyone else came to visit him, even BEFORE they ended in person visits due to modified movement. They also did not throw [redacted] into solitary confinement. He was temporarily locked up due to his refusing to follow orders. He told the Lt. that he wanted to be placed in Restrictive housing. He also [redacted] in county. You can't take everything that is said by these families as God's to honest truth. Yes, there are a few bad apples that work(ed) there, but I can tell you that there are by far many more there that do the job with integrity and that they do care! There are definitely several that are being accused of abusing inmates that did not! The CO'S there bust their butts daily while being attacked and assaulted. What happened to [redacted] was wrong and the CO that felt the need to [redacted] should be held accountable, but he is an anomaly! 99% of the CO's there are good people and would not go out of their way to hurt inmates! Ask me how I know? I worked there for 4 years until I was moved due to a credible death threat made against me by an inmate. Why would they make such threats? Because I did my job and held the inmates accountable for their actions. TRUST me, if it was safe for me to go back I would! You can't go believing a very one-sided version of these stories!"

" ... As far as the [redacted] If there was, I know for a fact they would have been addressed. He was [redacted] to assault staff 3 days before passing [redacted]. I can also verify that the whole time he was in our prison system, his mother nor anyone else came to visit him, even BEFORE they ended in person visits due to modified movement. They also did not throw [redacted] into solitary confinement. He was temporarily locked up due to his refusing to follow orders. He told the Lt. that he wanted to be placed in Restrictive housing. He also [redacted] in county. You can't take everything that is said by these families as God's to honest truth. Yes, there are a few bad apples that work(ed) there, but I can tell you that there are by far many more there that do the job with integrity and that they do care! There are definitely several that are being accused of abusing inmates that did not! The CO'S there bust their butts daily while being attacked and assaulted. What happened to [redacted] was wrong and the CO that felt the need to [redacted] should be held accountable, but he is an anomaly! 99% of the CO's there are good people and would not go out of their way to hurt inmates! Ask me how I know? I worked there for 4 years until I was moved due to a credible death threat made against me by an inmate. Why would they make such threats? Because I did my job and held the inmates accountable for their actions. TRUST me, if it was safe for me to go back I would! You can't go believing a very one-sided version of these stories!" (Docket 30).

As established in WERC's brief, these statements include at

least some information that would not have been available outside of the WICS system. Furthermore, even as to information that a third party might have obtained, most of the information is sensitive in nature, including statements about a deceased inmate's prior actions, which could also have been under investigation. WERC reasonably found that Krueger's actions "showed a serious lack of judgment, and posting sensitive information on social media erodes trust from inmates and coworkers." (Dkt. 31).

3. Substantial evidence supports the WERC's findings underlying its "just cause" determination.

The Court reviews whether there was substantial evidence to show that the proven conduct is just cause for discharge. *Safransky v. State Pers. Bd.*, 62 Wis. 2d 464, 472, 215 N.W.2d 379 (1974). There is just cause when the conduct (1) can reasonably be said to tend to impair the performance of the employee's duties or the efficiency of the group the employee works with, or (2) is "so substantial, oft repeated, flagrant, or serious that

[the employee's] retention in service will undermine public confidence in the [employer's] service." *Id.* at 474.

There is clear evidence of Krueger's improper and unpermitted use of the WICS system. None of Krueger's job requirements would involve her using WICS in the way she did. This coupled with the aforementioned release of sensitive information on social media breached the trust and reasonable expectations of the DOC. There is a rational nexus - improper use of WICS to obtain private information and sharing of sensitive private information will naturally impair Krueger's continued performance and DOC's trust in her as well as her employment group's ability to function, in addition to undermining public confidence in Krueger's employer. There was sufficient evidence to justify termination and skipping a 5-day suspension, especially in light of the previous three-day suspension.

As to any claim of disparate treatment, Krueger did not actually show what other employees did that was identical to what she did, and Krueger had no factual evidence to show how they were treated by the DOC. The disparate treatment issue is essentially speculation.

4. Krueger's argument about a "theory of misconduct" changing is not persuasive.

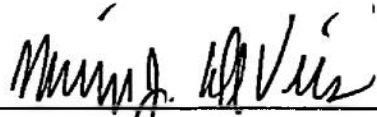
There is substantial evidence supporting WERC's conclusions on either the violation of Executive Directive # 50 or # 87. Krueger admitted that at least some of her social media postings came from the improper searching on the WICS system. This entire picture undermines the employment relationship. None of the cases cited by Krueger on this issue deal with an employment termination. There is no support for this argument and WERC did not act unreasonably in this decision.

CONCLUSION

Based on the foregoing, WERC's decision and order are affirmed. This is a final judgment or order for purposes of appeal. See *Wis. Stat.* § 808.03(1).

Dated this 9th day of April, 2026.

BY ORDER OF THE COURT:



Martin J. De Vries
Circuit Court Judge, Branch II
Dodge County, Wisconsin

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