

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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HARLAN GREENER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0746

Case Type: PA

DECISION NO. 40919

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Appearances:

Andrew Hulce, c/o Wisconsin Secure Program Facility, 1101 Morrison Drive, Boscobel, Wisconsin, appearing on behalf of Harlan Greener.

Nicole M. Porter, 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 April 18, 2025, Harlan Greener filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for one day without just cause by the State of Wisconsin Department of Corrections (DOC). The matter was assigned to Commission Examiner Anfin J. Wise.

A Zoom hearing was held on July 14, 2025, by Examiner Wise. The parties submitted written closing arguments on July 16, 2025.

On July 11, 2025, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Wise was given final authority to issue the Commission's decision.

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

### **FINDINGS OF FACT**

1. Harlan Greener (Greener) is employed by the State of Wisconsin Department of Corrections (DOC) as a Correctional Sergeant at the Wisconsin Secure Program Facility (WSPF), and he had permanent status in class at the time of his suspension.

2. WSPF is a maximum-security correctional facility located in Boscobel, Wisconsin operated by DOC, a state agency of the State of Wisconsin.

3. On November 29, 2024, Greener was delivering meals to inmates when he was assaulted by an inmate through a cell door trap with a cup of feces and urine.

4. After being assaulted, Greener had to wait for someone to take photos of him before he could clean himself up. He had feces and urine in his eyes, nose, mouth, and all over his arms and body. He then went to the hospital due to the significant exposure to blood and bodily fluids.

5. When he returned to the institution from the hospital, Greener self-reported to his supervisor that he had used profanity immediately after being assaulted but did not recall what he said.

6. After reviewing the video of the staff assault, it was found that Greener had said, “You’re a bitch” and “Fuck you” to the inmate.

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 suspend Harlan Greener for one day.

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

### **ORDER**

The one-day suspension of Harlan Greener shall be modified to a Letter of Expectation and Greener shall be made whole with interest.<sup>1</sup>

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

Issued at Madison, Wisconsin, this 29<sup>th</sup> day of July 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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Anfin J. Wise, Hearing Examiner

**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.

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

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

The facts are not in dispute. On November 29, 2024, Greener was working as the Sergeant in the Restrictive Housing Unit at WSPF. He was delivering meals to inmates when he was assaulted by an inmate through a cell door trap with a cup of feces and urine. After being assaulted or “dashed” by an inmate, Greener waited for someone to take photos of him before he could clean himself up. He had feces and urine in his eyes, nose, mouth, and all over his arms and body. He then went to the hospital due to the significant exposure to blood and bodily fluids. While at the hospital, the doctor confirmed there was a significant exposure to HIV. When he returned to the institution from the hospital, Greener self-reported to his supervisor, Lt. Kolbo, that he had used profanity immediately after being assaulted but did not recall what he said. After reviewing the video of the assault, it was found that Greener had said, “You’re a bitch” and “Fuck you” to the inmate.

The DOC initiated an investigation and determined that Greener had violated work rule 14, prohibiting demeaning, treating discourteously, bullying, or using profane or abusive language in dealing with others. DOC contended that staff are expected to maintain professionalism, particularly under stressful circumstances. The Department also maintained that those who violate this expectation are routinely issued progressive discipline. In support, the DOC provided fourteen comparable discipline letters for violation of work rule 14. However, none of the comparable discipline letters described circumstances similar to being dashed by an inmate.

Here, Greener credibly testified that he was in shock, and argued that this type of incident might be the most disrespectful and traumatic assault a DOC staff member could ever have to experience. He reacted the way any reasonable person would have reacted to being assaulted by urine and feces. Additionally, he self-reported to his supervisor that he had used profanity at the

inmate after being dashed. Under the circumstances, we find that being assaulted with feces and urine mitigates Greener's unprofessional outburst and name-calling.

Turning now to a just cause consideration of the level of discipline Greener received. We are satisfied that sufficient mitigation exists to reduce Greener's discipline.

Under the circumstances, the Commission concludes that DOC did not have just cause for a one-day suspension, but that a Letter of Expectation is appropriate to remind Greener of always maintaining professionalism, even under the most awful of circumstances.

Given the foregoing, it is concluded that the one-day suspension be modified to a Letter of Expectation and that Greener be made whole in all other regards.

Issued at Madison, Wisconsin, this 29<sup>th</sup> day of July 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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Anfin J. Wise, Hearing Examiner