

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

AMBER GRAY, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0747

Case Type: PA

DECISION NO. 40924

Appearances:

Amber Gray, N8305 Wilcox Rd., Portage, Wisconsin, appearing on her own behalf.

David 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 April 21, 2025, Amber Gray 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 matter was assigned to Commission Examiner Katherine Scott Lisiecki.

A Zoom hearing was held on June 23, 2025, by Examiner Lisiecki. The parties made oral closing arguments at the end of the hearing. On July 11, 2025, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Lisiecki 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. Amber Gray (Gray) was employed by the State of Wisconsin Department of Corrections (DOC) at the Columbia Correctional Institution (CCI) as a food service manager. At the time of her discharge, she had permanent status in class.

2. In February 2024, Gray received a note stating that one of her subordinates was engaging in a relationship with an inmate. She reassigned the employee but did not report the note to her supervisor.

3. Following an investigation, the DOC discharged Gray for gross negligence.

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 had just cause within the meaning of Wis. Stat. § 230.34 (1)(a) to discharge Amber Gray.

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

ORDER

The discharge of Amber Gray by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin this 7th day of August 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Katherine Scott Lisiecki, 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.

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

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

Gray was employed as a food service manager at Columbia Correctional Institution (CCI). Gray worked in the prison kitchen and managed the employees and inmates who worked in the kitchen.

In October 2024, a kitchen employee was arrested for engaging in a relationship with an inmate who worked in the kitchen. The employee told law enforcement that her supervisor, Gray, knew about her (the employee's) relationship with the inmate due to a February 2024 note, a type of note sent by inmates within the correctional institution.

During her interview, Gray admitted that she received an anonymous note in February 2024 informing her that the employee was engaging in a relationship with the inmate. She showed the note to her subordinates. Gray said she also showed the note to a corrections officer, but could not recall which officer. In response to the note, Gray changed the inmate's hours so that he did not work in the kitchen at the same time as the employee.

The Prison Rape Elimination Act (PREA) is a federal law that, among other things, prohibits relationships between prison employees and inmates. It is a felony for prison employees to engage in sexual relationships with inmates, because inmates cannot legally consent. If employees at correctional institutions become aware that staff are violating PREA, they are required to immediately report this to their supervisors.

Gray argues that she did not have sufficient management training. She also argues that she believed that going to an officer was sufficient, rather than reporting it to her chain of command. However, Gray received training in both fraternization and PREA, which directed her to inform

her supervisors if she suspected an employee was engaging in a relationship with an inmate. Gray knew or ought to have known to report this incident to her chain of command.

Gray argues that security was responsible for screening all kites, or notes, and therefore she should not be held responsible for failing to bring the note to security's attention. However, the Commission has previously found that although other security failures contribute to an incident, those failures do not detract from the seriousness of an employee's misconduct. See *Kratz v. DOC*, Dec. No. 38804 (WERC, 02/2021). Gray still had a responsibility to bring this extremely serious allegation to the attention of her supervisors.

Gray also argues that someone told her that she should have recognized fraternization because she was a woman, and that this demonstrated bias on their part. However, Gray did not provide any testimony to support this contention.

Gray was grossly negligent when she failed to report a relationship between her subordinate and an inmate to her supervisors. Although Gray has no previous discipline, the seriousness of her misconduct warrants this skip in progression to discharge. Warden Kevin Garceau testified that, since Gray had worked at CCI for several years, she ought to have known that she had a responsibility to report a potential PREA violation. Her conduct created a substantial risk to the safety and security of facilities, staff, or inmates. Therefore, there was just cause for the discharge, and the discharge is therefore affirmed.

Issued at Madison, Wisconsin this 7th day of August 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Katherine Scott Lisiecki, Hearing Examiner