

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MATTHEW GOLEMGESKI, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORECTIONS, Respondent.

Case ID: 1.0776

Case Type: PA

DECISION NO. 40944

Appearances:

Ben Hitchcock Cross, Attorney, Cross Law Firm, 845 North 11th St., Milwaukee, Wisconsin, appearing on behalf of Matthew Golemgieski.

Nicole 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 May 14, 2025, Matthew Golemgieski filed an appeal with the Wisconsin Employment Relations Commission asserting that he 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 July 21, August 15, and August 19, 2025, by Examiner Lisiecki. The parties submitted written closing arguments on August 29, 2025. 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. Matthew Golemgieski (Golemgieski) was employed by the State of Wisconsin Department of Corrections (DOC) at the Columbia Correctional Institution (CCI) as a correctional sergeant. At the time of his discharge, he had permanent status in class.

2. On July 14, 2024, an inmate threatened to self-harm, and Golemgieski replied “Yeah, that’s ... slice up for a whole call” before walking away. He did not report the inmate’s threat to self-harm to a supervisor.

3. On September 3, 2024, an officer told Golemgieski that an inmate had his cell window covered and was threatening to self-harm. Golemgieski directed the officer to finish his rounds rather than return to the inmate’s cell. Golemgieski went to the inmate’s cell an hour and a half later. He did not report the incident to a supervisor.

4. Following an investigation, the DOC discharged Golemgieski 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 Matthew Golemgieski.

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

ORDER

The discharge of Matthew Golemgieski by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin this 9th day of September 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.

Golemgieski 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 Golemgieski 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).

Golemgieski was employed as a correctional sergeant at Columbia Correctional Institution (CCI). On July 14, 2024, after Golemgieski told an inmate he could not make a phone call, the inmate threatened to self-harm. Golemgieski replied “Yeah, that’s . . . slice up for a phone call” before walking away. Golemgieski did not report this interaction to a supervisor.

Golemgieski argues that he didn’t believe the inmate really intended to self-harm. However, Golemgieski’s post orders required him to remain alert to “suicidal talk or gestures” and to forward observations or concerns about these issues to the security supervisor immediately. CCI Warden Kevin Garceau and institution unit supervisor Ryan Blount testified that staff are expected to immediately report inmate threats to self-harm to supervisors. Blount testified that Psychological Services staff, not officers or sergeants, are responsible for determining whether inmates are actually in crisis. Golemgieski failed to report the self-harm threat to a supervisor. Further, his reply to the inmate was callous and unprofessional.

On September 3, 2024, at approximately 5:35 p.m., correctional officer Devin Bayer told Golemgieski that an inmate had his cell window covered and was suicidal. Golemgieski told Bayer to complete his rounds rather than remain by the cell. Golemgieski did not go to the cell to observe or interact with the inmate immediately; instead, he engaged in other activities before finally visiting the inmate’s cell at 7:15 p.m. When the inmate did not respond, Golemgieski left again. Golemgieski did not report the cell window covering or suicidal ideation to a supervisor. When officers were finally able to enter the cell, they found the inmate unresponsive.

During the September 3, 2024, incident, Golemgieski did not have his body camera activated. Per DAI Policy 306.16.01, staff must wear and activate body cameras when having cell

front contact on a restricted housing range, and when interacting with or encountering a disruptive inmate. Golemgieski failed to abide by this policy.

Golemgieski argues that he was subject to disparate treatment, because Bayer did not remain at the inmate's cell window yet was not disciplined. The WERC has long recognized that disparities in discipline may, under certain circumstances, affirmatively defend against discipline despite the existence of misconduct. Underlying that position is the notion that if an employer treats one employee significantly more harshly than a similarly situated coworker for similar misconduct, inherent unfairness exists. *See Morris v. DOC*, Dec. No. 35682-A (WERC, 7/15). An employee who raises a disparate treatment claim has the burden of proving that contention. Here, although Bayer did not remain at the cell, he promptly reported the self-harm threat and window-covering to his supervisor, Golemgieski, who directed Bayer to complete his rounds rather than to return to the cell. Golemgieski failed to either remain at the cell or report the incident to his supervisor. Further, Bayer was merely a correctional officer, while Golemgieski was a correctional sergeant and the lead worker on the unit. Golemgieski was responsible for ensuring that he and his staff, including Bayer, followed the unit's post orders. Therefore, Bayer and Golemgieski are not similarly situated.

Golemgieski argues that his discharge violated Wis. Stat. § 230.25. However, this argument is based on a misunderstanding of the statute: Wis. Stat. § 230.25 is about civil service certification during the hiring process, not the disciplinary process.

Golemgieski argues that the hearing examiner cannot make a finding of just cause because DOC Secretary Jared Hoy, who made the decision to discharge Golemgieski, did not testify at the hearing. However, Warden Garceau testified that he recommended that the DOC discharge Golemgieski, and Hoy concurred with Garceau's recommendation. Further, Hoy's testimony is not necessary for the hearing examiner to make a finding of just cause. The facts clearly show that Golemgieski committed misconduct.

Golemgieski was grossly negligent when, on July 14, 2024, he walked away from an inmate threatening to self-harm and did not report the incident to a supervisor. Golemgieski was likewise grossly negligent when, on September 3, 2024, in response to an inmate's covered cell window, Golemgieski directed an officer to finish his rounds rather than remain at the cell, did not visit the inmate's cell for an hour and a half, and did not report the incident to a supervisor. Golemgieski was the lead worker on the unit and responsible for carrying out the post orders, which required reporting this information to a supervisor. Golemgieski received a one-day suspension for negligence earlier this year, so his discharge represents a two-step skip in progression. However, Golemgieski's gross negligence and callous behavior twice caused a substantial risk to the safety and security of inmates. DOC staff bear the ultimate responsibility of ensuring inmates' safety, and repeatedly ignoring or making light of suicidal ideation is a clear violation of that responsibility. In addition to these serious acts of misconduct, Golemgieski also failed to follow DOC policy by activating his body camera. Therefore, there was just cause for the discharge, and the discharge is therefore affirmed.

Issued at Madison, Wisconsin this 9th day of September 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Katherine Scott Lisiecki, Hearing Examiner