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06-11-2026
CIRCUIT COURT
DANE COUNTY, WI
2025CV004151

BY THE COURT:

DATE SIGNED: June 11, 2026

Electronically signed by Julie Genovese
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 13

DANE COUNTY

SHAWN SCHAEFER,

Petitioner,

vs

Case No. 2025CV4151

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION, et al.

WERC Decision 40948-B

Respondent

DECISION AND ORDER AFFIRMING COMMISSION'S DECISION

INTRODUCTION

Petitioner Shawn Schaefer ("Schaefer"), brings this Petition for Judicial Review of the Wisconsin Employment Relations Commission's ("WERC" or "the Commission") decision to terminate his employment as a Correctional Sergeant. Under Wisconsin law, a state employee with permanent status can only be terminated if the employer has just cause. Wis. Stat. § 230.34(1)(a). A state employee who believes that his termination was without just cause can appeal that termination to WERC. Wis. Stat. § 230.44(1)(c). The State has the burden to

establish that an employee was guilty of the misconduct alleged and whether that 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(174).

Schaefer asserts that there was not substantial evidence in the record to support his termination for just cause, and that the “appointing authority” as defined by statute did not discharge him in violation of the statute. For the reasons stated, the Commission’s decision is affirmed.

FACTS

Petitioner Shawn Schaefer was a Correctional Sergeant at Oakhill Correctional Institution (OCI). (Dkt. 39 at 23; R. at 693.) He was terminated by the Department of Corrections for falsifying records. He appealed that termination to WERC and had a hearing on September 4, 2025 before WERC Examiner Anfin J. Wise. (Dkt. 39 at 21; R. at 691.)

Examiner Wise issued a Proposed Decision and Order affirming the discharge, and Schaefer objected to the decision. (Dkt. 39 at 21; R. at 691.) On October 6, 2025, WERC entered a final decision which found that the DOC had just cause to discharge Schaefer. (Dkt. 39 at 22; R. at 692.)

In its Memorandum the, Commission made the following findings of fact. As a part of his duties as a Sergeant, Schaefer was responsible for completing security rounds at scheduled intervals. (Dkt. 39 at 23; R. at 693.) Once each security round was completed, Schaefer was required to log the round in an electronic logbook. (Dkt. 39 at 23; R. at 693.) On February 1, 2025, Schaefer logged that he completed a

security round at 8:25AM. (Dkt. 39 at 23; R. at 693.) However, video evidence determined that this round was never completed. (Dkt. 39 at 23; R. at 693.) Video demonstrated that Schaefer exited his office at 8:24AM, returned to his office at 8:26AM, and then logged that he completed a round at 8:25AM. (Dkt. 39 at 24; R. at 694.) Schaefer does not dispute that he never completed the round in question. (Dkt. 39 at 24; R. at 694.)

The Department of Corrections determined that Petitioner's falsification of the log entry constituted basis to terminate him, pursuant to Wis. Stat. § 230.34(1)(a)5, which states that: "It is just cause to remove, suspend without pay, discharge, reduce the base pay of, or demote an employee without imposing progressive discipline for any of the following conduct: Falsifying records of the agency." (Dkt. 39 at 23; R 693)

In upholding the decision, the Commission reasoned:

The falsification of agency records created a substantial risk to the safety and security of the institution, staff, and the inmates in his care. The electronic log is an official document reflecting a truthful and accurate account of what occurs during each shift. Not only does missing a security round possibly mean an inmate living or dying, but logging a security round without completing it is even worse. It creates a false record of the agency.

On that basis, Schaefer was terminated,

(Dkt. 39 at 23; R. at 693.)

STANDARD OF REVIEW

Judicial review under Wis. Stat. ch. 227 is confined to the record, and limited to determining whether the agency committed a procedural error, erroneously

interpreted a provision of law, or lacked substantial evidence in the record for its decision. Wis. Stat. §§ 227.57(1), (3)-(6). The burden of proof is on the party seeking to overturn the underlying decision, and not on the agency to justify its decision. *City of La Crosse v. Wis. Dep't of Nat. Res.*, 120 Wis. 2d 168, 178, 353 N.W.2d 68 (Ct. App. 1984). If the petitioner fails to prove a legal or procedural error or fails to prove the agency's decision is not supported by substantial evidence in the record, the reviewing court must affirm the agency's decision. Wis. Stat. § 227.57(2). While courts no longer afford deference to an agency's view of the law, courts are 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*, 2018 WI 75, ¶ 77-78, 101, 382 Wis. 2d 496, 561, 914 N.W.2d 21, 53.

A. The Commission's Decision is Supported by Substantial Evidence Contained in the Record

Schaefer asserts that there is not substantial evidence of him intentionally "falsifying records of the agency" under §230.34(1)(a)(5). He does not dispute that he did in effect falsify the records. Rather, he contends that he simply forgot, and therefore at most his conduct was negligent. He argues that this offense is not so serious requiring termination (as opposed to progressive discipline).

He cites the non-exhaustive list of examples of serious acts of misconduct that warrant immediate termination without progressive discipline, including theft, using drugs, harassment, assault, and use of child pornography. See Wis. Stat.

§230.34(1)(a). According to Schaefer, these acts are so serious that they have criminal analogues with a *mens rea* component. Here, Schaefer asserts that because he simply forgot that he did not complete the rounds, his negligent oversight is not analogous to serious acts of misconduct.

It is not clear whether the infraction of falsifying records requires an intentional component. Even if it does, however, the Commission concluded that Schaefer did the act intentionally. The Commission points to the fact that video shows that Schaefer exited his office at 8:24 a.m, returned to his office at 8:26 a.m. and then logged that he completed a round at 8:25 a.m. (Dkt. 39, 24; R. at 694) The Commission concluded that Schaefer's testimony that he thought he completed the round was "not credible" and was "self-serving." A reasonable inference is that Schaefer intentionally did not do his rounds but said he did.

Schaefer claims that the video was inadmissible hearsay and that he did not have an opportunity to rebut it because it was introduced at the end of the case when all the exhibits were received. Schaefer was aware before the hearing that the video was listed as a possible exhibit. He had access to that video. There was substantial testimony from witnesses about what the video showed. Exhibit R-8 which was the video was authenticated by Captain Eric Boyle, who testified at the hearing (Dkt. 12, 26-27; R69-70). This was not an out of court statement by Schaefer being offered for the truth, but rather a recording of where Schaefer was and when, at the time he entered the log.

B. Schaefer's Argument That the Wrong Appointing Authority Made the Decision is Without Merit.

Schaefer argues that Wis. Stat. §230.06(1)(b) requires the appointing authority to make the decision to terminate him. That provision provides that the appointing authority has the authority to “remove persons from classified service.” The Deputy Secretary testified that the Warden “signs the letter as the appointing authority with the final determination of the discipline ...That is the truth”. (Dkt. 11, 32; R:31-33). The Warden testified that as the appointing authority, he recommended the termination. (Dkt. 13, 25, 28; R: 109,112)

Schaefer argues that DOC Secretary Hoy actually made the decision to terminate him, and therefore proper procedure was not followed. As DOC Secretary, Hoy supervises the warden and has the authority to delegate the discipline and termination decision to him. The testimony supports that the warden signed the termination letter as the appointing authority and that he recommended Schaefer's termination. Simply because the Secretary, who delegated the authority, reviewed or approved it does not constitute a procedural error warranting overturning the Commission's decision. Both the Secretary and the Warden concluded that termination was appropriate.

CONCLUSION

For the reasons stated, the Commission's decision is **AFFIRMED**. This is a final decision for purposes of appeal.

