

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BRANDON SIMONSEN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0782

Case Type: PA

DECISION NO. 40957

Appearances:

Brandon Simonsen, c/o Racine Correctional Institution, 2019 Wisconsin Street, Sturtevant, Wisconsin, appearing on his own behalf.

William H. Ramsey, Deputy Chief Legal Counsel, 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 June 18, 2025, Brandon Simonsen filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for five days without just cause by the State of Wisconsin Department of Corrections (DOC). The matter was assigned to Commission Examiner Anfin J. Wise.

A consolidated Zoom hearing was held on September 8, 2025, by Examiner Wise. The parties made oral argument at the conclusion of the hearing.

On September 24, 2025, Examiner Wise issued a Proposed Decision rejecting the suspension and ordering that Simonsen be made whole.

On September 29, 2025, DOC filed objections to the Proposed Decision. Simonsen did not file a response to the objections and the matter became ripe for Commission consideration on October 7, 2025.

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

FINDINGS OF FACT

1. Brandon Simonsen (Simonsen) is employed by the State of Wisconsin Department of Corrections (DOC) as a Correctional Officer at Racine Correctional Institution (RCI), and he had permanent status in class at the time of his suspension.

2. RCI is a medium-security correctional facility located in Sturtevant, Wisconsin operated by DOC, a state agency of the State of Wisconsin.

3. Simonsen chose to accept a Facebook friend invitation from an individual who turned out to be under the supervision of the Department of Corrections and was a former inmate at RCI.

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 Brandon Simonsen for five days but did have just cause to suspend him 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 five-day suspension of Brandon Simonsen is modified to a one-day suspension and he shall be made whole for the difference with interest.¹

Issued at the City of Madison, Wisconsin, this 14th day of October 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

¹ See Wis. Admin. Code ERC 94.07.

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.

Brandon Simonsen 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 Simonsen 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).

Simonsen is on Facebook and accepted an invitation to be a Facebook friend of an individual. Unbeknownst to Simonsen, it turned out that the invitation came from a former inmate at the prison where Simonsen worked and that the individual was still under DOC supervision.

DOC has a legitimate security interest in not having its employees be Facebook friends with individuals who are still under DOC supervision. Access to a DOC employee's Facebook account by such individuals has the potential to provide personal information that could be used to compromise the employee and thus also the prison where the employee works.

Given that security interest, if a DOC employee who chooses to be on Facebook is not certain as to the identity of someone who wants to "friend" them, the employee needs to decline the invitation or check that individual's identity before accepting the invitation. It is clear to the Commission that DOC would allow the use of its resources for such a check.

By accepting the Facebook invitation of an individual who was still under DOC supervision, Simonsen engaged in conduct that had the potential to compromise his security as a DOC employee and the security of the prison where he works. Therefore, he engaged in misconduct.

As to the issue of what level of discipline should be imposed under the just cause standard, the Commission concludes that a one-day suspension is appropriate under the circumstances present here. Simonsen's failure to check out the identity of a person extending the invite was foolish but caused no actual harm. Thus, even considering Simonsen's disciplinary record at the

time of his misconduct, any discipline exceeding a one-day suspension violates the just cause standard under the circumstances present in this matter.

Given the foregoing, the Commission concludes that DOC did not have just cause for a five-day suspension but did have just cause to suspend him for one day. Simonsen shall be made whole for the difference with interest.

Issued at the City of Madison, Wisconsin, this 14th day of October 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman