

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

KODEY KINNARD, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0823

Case Type: PA

DECISION NO. 41251

Appearances:

Kodey Kinnard, 131 Lincoln St., Pulaski, Wisconsin, appearing on his own behalf.

Eric Muellenbach, Attorney, Department of Corrections, 3099 East Washington Ave., PO Box 7925, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER GRANTING MOTION TO DISMISS

On September 8, 2025, Kodey Kinnard filed an appeal with the Wisconsin Employment Relations Commission regarding his non-selection by the State of Wisconsin Department of Corrections (DOC) for a position as Correctional Officer.

On September 11, 2025, the DOC made a motion to dismiss the appeal pursuant to Wis. Stat. § 230.44(3). On September 15, 2025, Kinnard filed a statement opposing the motion.

Having considered the matter, the Commission is satisfied that the appeal should be dismissed as untimely filed.

NOW, THEREFORE, it is:

ORDERED

The motion to dismiss is granted and the appeal is dismissed.

Issued at Madison, Wisconsin, this 12th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER
GRANTING MOTION TO DISMISS

On July 22, 2025, Kinnard was informed he was not selected for a DOC position.

Pursuant to Wis. Stat. § 230.44(3), an appeal of a non-selection must be filed with the Wisconsin Employment Relations Commission “within 30 days after the effective date of the action, or within 30 days after the appellant is notified of the action, whichever is later.”¹ Kinnard filed his appeal on September 8, 2025—well after the 30 day period expired on August 21, 2025.

Given all of the foregoing, the September 11, 2025, DOC motion to dismiss is granted and his appeal is dismissed as untimely filed.

Issued at the City of Madison, Wisconsin, this 12th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

¹ For the purposes of a non-selection appeal, it is not the date a position is filled but rather the date an employee receives notice of non-selection that triggers the 30-day period.