

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MICHAEL BOLIN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0812

Case Type: PA

DECISION NO. 41262-A

Appearances:

Elizabeth Pierson, Attorney, Pines Bach LLP, 122 W. Washington Avenue, Suite 900, Madison Wisconsin, appearing on behalf of Michael Bolin.

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.

ORDER DENYING PETITION FOR REHEARING

On December 1, 2025, the Wisconsin Employment Relations Commission issued a Decision and Order in this matter modifying the discharge of Michael Bolin by the State of Wisconsin Department of Corrections to reinstatement without back pay. On December 19, 2025, Bolin filed a Petition for Rehearing asserting that the Commission committed an error of law because the Order de facto created a suspension period illegally exceeding 30 calendar days. On January 9, 2026, the State filed a response in opposition to the Petition. That same day, Bolin filed a brief reply.

Having considered the matter, the Commission concludes that it did not commit an error of law.

NOW, THEREFORE, it is:

ORDERED

The Petition for Rehearing is denied.

Issued at Madison, Wisconsin, this 20th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

MEMORANDUM ACCOMPANYING ORDER
DENYING PETITION FOR REHEARING

Section 230.34 Wis. Stats. provides in pertinent part:

230.34 Demotion, suspension, discharge and layoff.

(1)(a) An employee with permanent status in class or an employee who has served with the state as an assistant district attorney or an assistant state public defender for a continuous period of 12 months or more may be removed, suspended without pay, discharged, reduced in base pay, or demoted only for just cause. It is just cause to remove, suspend without pay, discharge, reduce the base pay of, or demote an employee for work performance or personal conduct that is inadequate, unsuitable, or inferior, as determined by the appointing authority, but only after imposing progressive discipline that complies with the administrator's standards under s. 230.04 (13m). 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:

...

(b) No suspension without pay shall be effective for more than 30 days. The appointing authority shall, at the time of any action under this section, furnish to the employee in writing the reasons for the action. (*emphasis added*)

Bolin argues that the bolded statutory language above precludes the Commission from fashioning a remedial order that deprives him of pay for more than 30 calendar days. The Commission disagrees.

From this Commission's perspective, that statutory language applies to the State of Wisconsin when it acts as an employer/"appointing authority" imposing discipline on an employee. It has no application whatsoever to the remedial discretion the Commission is statutorily authorized to exercise when it determines if there was just cause for the discipline the State choose to impose.

The Commission acknowledges that prior Commissions have issued decisions suggesting if not outright holding that Wis. Stats. § 230.34(1)(b) does limit the Commission's remedial authority. However, as the State points out in its rehearing response, more recent Commissions have taken a different view and thus fashioned a remedy of reinstatement without back pay on more than one occasion. Further, the State's rehearing response reflects agreement with the current Commission's view that creation of a de facto suspension in excess of 30 days is within the Commission's remedial authority. Therefore, the Commission has denied the Bolin Petition for Rehearing.¹

¹The Commission observes that if it is definitively judicially determined that the Commission lacks the remedial authority it exercised in this matter, the Commission will be faced with the remedial dilemma of how best to proceed

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WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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when forced to choose between a suspension of no more than 30 days and upholding a discharge. In some instances, it can be anticipated that the Commission will opt to uphold the discharge.