

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

RYAN SMITH, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0824

Case Type: PA

DECISION NO. 41274

Appearances:

Ryan Smith, 1735 Oshkosh Ave., Oshkosh, Wisconsin, appearing on his own behalf.

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 30, 2024, Ryan Smith filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for one day without just cause by the State of Wisconsin Department of Corrections. The appeal was assigned to now Commission Chairman Peter G. Davis.

A Zoom hearing was held on October 23, 2025, by Chairman Davis. The parties made oral argument at the conclusion of the hearing.

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

FINDINGS OF FACT

1. Ryan Smith (Smith) is employed by the State of Wisconsin Department of Corrections (DOC) as a Correctional Sergeant at Winnebago Correctional Center (WCC) and had permanent status in class at the time of his one-day suspension.

2. The Department of Corrections (DOC) is a state agency responsible for the operation of various corrections facilities including WCC, a correctional center located in Winnebago, Wisconsin.

3. On April 14, 2025, Smith was working the control center at WCC and was responsible for inspecting all incoming staff property. Also, if an individual entered the institution without reporting to the control bubble for a property search, Smith was expected to notify his supervisors.

4. On April 14, 2025, another Correctional Sergeant reported for duty at WCC and was later found to have ammunition in his clear plastic personal bag.

5. The bag with the contraband was left unattended for a significant period of time, and the Sergeant who had the contraband in his bag entered and exited through an unmonitored rear door multiple times before the contraband was discovered.

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 to review this appeal pursuant to Wis. Stat. § 230.44 (1)(c).

2. The State of Wisconsin Department of Corrections did not meet its burden of proof as to whether Ryan Smith should have but did not discover the contraband.

3. The State of Wisconsin Department of Corrections did not have just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Ryan Smith 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 one-day suspension of Ryan Smith by the State of Wisconsin Department of Corrections is rejected, and he shall be made whole with interest¹.

Issued at Madison, Wisconsin, this 23rd day of December 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., provides in pertinent part the following as to certain employees of the State of Wisconsin:

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.

Ryan Smith 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 Smith 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).

It is undisputed that on April 14, 2025, Smith was employed as a Sergeant assigned to the control center at Winnebago Correctional Center and that his responsibilities included searching incoming staff's personal property. It is also undisputed that if an individual entered the institution without reporting to the control bubble for a property search, Smith was expected to notify his supervisors. Another Sergeant entered while Smith was on duty and was later found to have brought contraband into the institution when staff found it in the Sergeant's bag in the property room.

Smith testified he did not recall the day in question, did not recall whether the other Sergeant made his presence known when reporting to work, and did not recall whether he looked into the other Sergeant's bag. There is no specific evidence to affirmatively link any act or omission by Smith to the introduction of the contraband into the institution.

Moreover, it is undisputed that the bag was left unattended for a significant period of time, during which others could have accessed it. It is also undisputed that the other Sergeant entered and exited through an unmonitored rear door multiple times, providing an alternative opportunity for the contraband to be introduced without Smith's knowledge or involvement.

Given the foregoing, while Smith may have been responsible for missing the contraband, the Commission concludes that DOC has not been able to meet its burden to prove that he did so. Therefore, the suspension is rejected and Smith shall be made whole.

Issued at Madison, Wisconsin, this 23rd day of December 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman