

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

VICTOR CRUZ, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0827

Case Type: PA

DECISION NO. 41277

Appearances:

Victor Cruz, 2541 W. Waukau Avenue, Oshkosh, Wisconsin, appearing on his own behalf.

William H. Ramsey, Deputy Chief Legal Counsel, Department of Administration, 101 E. 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 September 11, 2025, Victor Cruz 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 matter was assigned to Commission Examiner Anfin J. Wise.

On September 16, 2025, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Wise was given final authority to issue the Commission's decision.

A Zoom hearing was held on December 10, 2025, by Examiner Wise. The parties made oral argument at the conclusion of the hearing.

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

FINDINGS OF FACT

1. Victor Cruz was employed¹ by the State of Wisconsin Department of Corrections (DOC) as a Supervising Officer 1 (Lieutenant) at Taycheedah Correctional Institution (TCI) and had permanent status in class when he was suspended.

2. TCI is a medium and maximum-security correctional facility located in Fond du Lac, Wisconsin operated by the DOC, an agency of the State of Wisconsin.

3. On February 14 or 15, 2025, while off duty, Cruz was involved in an argument with his girlfriend.

4. On February 22, 2025, Cruz's girlfriend reported the incident to the police. After Cruz and his girlfriend provided statements to the police, on February 24, 2025, Cruz was arrested by the Oshkosh Police Department based on Wisconsin's domestic mandatory arrest guidelines.

5. On February 24, 2025, Cruz's girlfriend contacted the DOC and reported the incident.

6. After an investigation, DOC suspended Cruz for one day for the conduct referenced in Finding 3 and his subsequent arrest.

7. DOC did not demonstrate a sufficient nexus between Cruz's work duties and the conduct referenced in Finding 3 and his arrest.

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 Victor Cruz for one day.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

¹ Cruz was discharged by DOC on August 20, 2025, for an unrelated allegation of misconduct.

ORDER

The one-day suspension of Victor Cruz by the State of Wisconsin Department of Corrections is rejected, and he shall be made whole with interest.²

Issued at Madison, Wisconsin this 6th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Anfin J. Wise, Hearing Examiner

² 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.

Victor Cruz 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 Cruz 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).

On February 14 or 15, 2025, while off duty, Cruz was involved in an argument with his girlfriend. On February 22, 2025, his girlfriend reported the incident to the police. After Cruz and his girlfriend provided statements to the police, Cruz was arrested on February 24, 2025, by the Oshkosh Police Department based on Wisconsin's domestic mandatory arrest guidelines. Later on February 24, Cruz's girlfriend contacted the DOC and reported the incident.

DOC has a work rule that says whenever an employee has "police contact" they are to notify their supervisor of their police contact within a certain time frame. Cruz complied with this directive and notified a supervisor of his police contact the morning after his arrest on February 25, 2025.

Afterwards, DOC conducted an investigation into the matter. After its investigation was completed, DOC concluded that Cruz's conduct on February 14 or 15, 2025, and his arrest violated Work Rule #25. That Rule provides:

Engaging in any outside activities (including violations or convictions of criminal or other laws) which may impair the employee's independence of judgment or impair the employee's ability to perform his/her duties as an employee of the state.

In the suspension notice, DOC opined on why Cruz's arrest was problematic for the department, and the connection/nexus between his arrest and his duties as a Correctional Lieutenant. It provided:

The Department and its employees have a responsibility to the public to ensure that correctional, rehabilitation and treatment programs are carried out in a legal, effective, safe and humane manner. As such, employees, especially Supervising Officer 1 are held to a high standard of expectations regarding their conduct both on and off duty. As a Supervising Officer 1 with the DOC, you to [sic] set an example for the Person In Our Care (PIOC) you supervise. In addition, your job functions require you to provide effective counsel to PIOC seeking assistance with their rehabilitative needs, which could include domestic abuse. Your behavior the night of 2/14/2025 does not demonstrative [sic] of your ability to serve as such influence or example to the inmates and the community you serve.

The basic question to be answered here is whether Cruz's arrest for allegations of domestic abuse was substantially related to his job with DOC. If it was, then his arrest constituted misconduct within the meaning of Work Rule #25 and he could be disciplined for that. However, if his arrest was not substantially related to his job, then his arrest did not constitute misconduct within the meaning of Work Rule #25 and he could not be disciplined for that.

In *Johnson v. DOC*, Dec. No. 36747 (WERC, 2/17), the Commission overturned the ten-day suspension of a DOC employee who committed off-duty misconduct. In *Johnson*, the Commission held that for just cause to exist in determining whether discipline is appropriate for off-hours conduct, there must exist a nexus between the conduct and the work duties expected of the employee. The employee's behavior must directly impinge upon the employer's operational interests.

During testimony, DOC attempted to establish this nexus by presenting testimony that Cruz, as a supervisor, is expected to maintain professionalism even while off duty. His job duties require him to set an example for the inmates in his care and his arrest for allegations of domestic abuse may have the potential to affect his ability to counsel or interact with the all-female population at TCI. However, the speculative aspect of this testimony is insufficient to establish the nexus between Cruz's off-duty conduct and the employer's legitimate operational interests. Additionally, the record established that Cruz was not cited, charged, or convicted of any law violation in connection with the February incident.

Given the foregoing, it is concluded there was not just cause for Cruz's one-day suspension and it is therefore rejected. Cruz shall be made whole consistent with the outcome of this order.

Issued at Madison, Wisconsin this 6th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Anfin J. Wise, Hearing Examiner