

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ANTONIO GONZALEZ, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0762

Case Type: PA

DECISION NO. 41308

Appearances:

Anthony Gunderson, 30 Wilcox St., Waupun, Wisconsin, appearing on behalf of Antonio Gonzalez.

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

Antonio Gonzalez is employed as a correctional officer at Dodge Correctional Institution in Waupun, Wisconsin. On April 2, 2025, Gonzalez was injured at work in the course of his employment. Gonzalez sought and was denied benefits under Wis. Stat. § 230.36. He filed a timely grievance and pursued that matter through the grievance procedure.

On May 9, 2025, Gonzalez filed an appeal with the Wisconsin Employment Relations Commission. The appeal was assigned to Commission Examiner Katherine Scott Lisiecki. A Zoom hearing was held on September 22, 2025, by Examiner Lisiecki. The parties made oral argument at the conclusion of the hearing.

On February 16, 2026, Examiner Lisiecki issued a Proposed Decision and Order finding Gonzalez not eligible for benefits under Wis. Stat. § 230.36. No objections to the Proposed Decision were filed by the parties and the matter became ripe for Commission consideration on March 10, 2026.

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

FINDINGS OF FACT

1. Antonio Gonzalez (Gonzalez) was employed by the Wisconsin Department of Corrections as a correctional officer at Dodge Correctional Institution (DCI).

2. On April 2, 2025, DCI experienced a power outage that rendered electronic door control panels inoperable. Certain sliding doors could not be opened or secured electronically, requiring staff to attempt to use them manually.

3. While attempting to manually open a closed sliding door to remove staff during the power outage, Gonzalez sustained an injury.

4. No inmate physically assaulted, threatened, or made contact with Gonzalez, or any other person, during the incident.

5. No inmate engaged in any conduct that caused or contributed to the emergency situation or Gonzalez's injury.

6. The DOC denied Gonzalez's request for hazardous duty pay on the grounds that the injury was not induced by an act of a person in their care or custody.

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

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Wis. Stat. §230.36(4).

1. While working as a guard within the meaning of Wis. Stat. § 230.36(2m)20, Gonzalez suffered an accidental injury within the meaning of Wis. Stat. § 230.36(1m)(a)3.

2. At the time of Gonzalez's injury, he was not engaged in any of the activities set forth in Wis. Stat. § 230.36(1m)(b)3.a-f.

3. Gonzalez is not eligible for benefits under Wis. Stat. § 230.36.

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

ORDER

The appeal of Antonio Gonzalez is dismissed.

Issued at Madison, Wisconsin, this 10th day of April 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Hazardous duty pay under Wis. Stat. § 230.36 is a limited statutory benefit. It is not intended to compensate correctional employees for all injuries sustained in dangerous or emergency situations. Rather, eligibility is restricted to specified employees and to injuries occurring in narrowly defined circumstances. Guards and other employees at state penal institutions qualify for hazardous duty pay only if they are injured or physically harmed by accident or disease while: (a) quelling a riot, disturbance, or other act of violence; (b) restraining inmates or apprehending runaways or escapees; (c) as the result of an act by an inmate or other person in custody; (d) making an arrest or investigating a violation of law pursuant to authorized police powers; (e) responding to or suppressing a fire, evacuating inmates, or conducting fire drills; or (f) contracting a disease arising from the care of inmates.

Thus, while the statute provides compensation when an employee suffers an injury “occasioned as the result of an act by a patient, inmate, probationer, parolee, or person on extended supervision” while performing enumerated duties, it does not extend to all injuries sustained in hazardous or stressful working conditions. An employee is only eligible for hazardous duty pay if there is a direct causal nexus between the injury and an affirmative act of a person in the employee’s care or custody.

Here, Gonzalez is employed at a state penal institution, Dodge Correctional Institution (DCI). Gonzalez was injured during a power outage that rendered electronic door controls inoperable and significantly reduced lighting within the institution. He sustained his injury while attempting to manually operate a sliding door. There is no evidence that any inmate physically assaulted, threatened, interfered with, or otherwise engaged in conduct directed toward Gonzalez, or toward any other person, at the time of his injury. Injuries caused by mechanical failures, environmental conditions, or physical exertion do not satisfy the statutory requirement that the injury be “occasioned as the result of an act” of an inmate.

Gonzalez argues that *Derksen v. DOC*, Dec. No. 35019-A (WERC, 9/14) supports his claim. In *Derksen*, the appellant was awarded hazardous duty pay because inmates attempted to observe a staff member receiving medical treatment, which directly precipitated staff intervention and the resulting injury. The inmate’s affirmative conduct in *Derksen* constituted an “act” within the meaning of Wis. Stat. § 230.36. Here, however, no inmate engaged in any conduct requiring intervention, nor did any inmate’s actions cause or contribute to Gonzalez’s injury. The mere presence of inmates in a potentially volatile environment does not constitute an “act” under Wis. Stat. § 230.36. Therefore, *Derksen* is distinguishable.

Gonzalez argues that correctional sergeant George Kramer, another DCI employee, received hazardous duty pay for an injury sustained during the same power outage. Kramer injured his shoulder while closing a door in a different unit, in order to restrain inmates. However, Kramer’s situation is distinguishable from Gonzalez’s because Kramer was injured while restraining inmates, whereas Gonzalez was injured while opening a door to relieve a staff member on a unit in which the inmates were calm and did not need to be restrained.

Although Gonzalez’s actions are commendable, Wis. Stat. § 230.36 limits hazardous duty pay to injuries incurred in specific, enumerated circumstances. Because Gonzalez’s actions do not fall within the scenarios outlined in § 230.36, he is ineligible for hazardous duty pay.

Issued at Madison, Wisconsin, this 10th day of April 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman