

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MICHAEL GREEN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0850

Case Type: PA

DECISION NO. 41314

Appearances:

Marie Mickley and Victor Plantinga, Attorneys, Rose Payne, S.C., 1134 N. 9th Street, Suite 220, Milwaukee, Wisconsin, appearing on behalf of Michael Green.

Andrea L. Olmanson, Attorney, Department of Corrections, 3099 East Washington Avenue, P.O. Box 7925, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On November 14, 2025, Michael Green filed an appeal with the Wisconsin Employment Relations Commission asserting he had been discharged without just cause by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Commission Chairman Peter Davis and then reassigned to Commission Examiner Cara Larson.

A hearing was held on February 10, 2026, by Examiner Larson in Milwaukee, Wisconsin. The parties submitted written closing arguments on February 13, 2026. On February 19, 2026, Examiner Larson issued a Proposed Decision and Order, affirming the discharge of Green by the DOC. No objections to the proposed decision were received by the parties by the given deadline, and the matter became ripe for Commission consideration on February 25, 2026.

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

FINDINGS OF FACT

1. Michael Green (Green) was employed by the State of Wisconsin Department of Corrections (DOC) as Correctional Center Superintendent at Marshall Sherrer Correctional Center (MSCC) and had permanent status in class at the time of his discharge.

2. The DOC is a state agency responsible for the operation of various corrections facilities including Marshall Sherrer Correctional Center, located in Milwaukee, Wisconsin.

3. In February 2024, Green engaged in inappropriate conduct when he kissed Sergeant L.B. at Marshall Sherrer Correctional Center.

4. The DOC discharged Green from employment on September 10, 2025, for the misconduct referenced in Finding of Fact 3.

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 had just cause within the meaning of Wis. Stat. § 230.34 (1)(a) to discharge Michael Green.

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

ORDER

The discharge of Michael Green by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 5th day of March 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by: Peter G. Davis

Peter G. Davis, Chairman

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.

Michael Green had permanent status in class at the time of his discharge and his appeal alleges that the discharge was not based on just cause.

The State has the burden of proof to establish that Green 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).

The central factual dispute concerns whether Green engaged in inappropriate physical contact with Sergeant L.B. when he hugged and kissed her on February 22, 2024, while in the control bubble of Marshall Sherrer Correctional Center (MSCC). There is no video recording of the interior of the control bubble as the facility does not maintain video surveillance of that space.

Both Sergeant L.B. and Sergeant Robinson recounted that they were in the control bubble when Green entered and sat down next to L.B. when she was crying. L.B. and Green stood up, Green embraced Sergeant L.B., and then kissed her on the mouth. L.B. said this was without her consent. Green categorically denies that any such contact occurred. However, Sergeant L.B. and Sergeant Robinson were credible and persuasive.

Although Green emphasized certain discrepancies in their accounts, such as whether tongue was involved in the kiss, whether Green and L.B. talked to each other before the kiss, or the precise placement of Green's hands, those differences concern peripheral details. Both witnesses were unwavering on the core facts: Green embraced Sergeant L.B. and he kissed her on the mouth. Minor variations in memory are not unexpected, particularly when recounting a brief and emotionally charged incident more than a year after it occurred. Indeed, perfectly aligned accounts might reasonably raise suspicion of fabrication. Here, the natural variations lend authenticity rather than detract from credibility.

Moreover, Sergeant L.B.'s explanation for the delay in reporting is credible. Green was the Superintendent, the highest authority at MSCC. It is entirely plausible that a subordinate employee would hesitate to report unwanted sexual contact by the institutional head due to fear of retaliation

or professional consequences. That Sergeant L.B. ultimately reported the conduct after transferring to another institution supports, rather than undermines, her credibility.

Green also argues that Sergeant L.B.'s failure to disclose the incident during the January 2025 "conflict resolution" meeting renders her account suspect. This is not persuasive. The January 2025 meeting was convened to discuss workplace management concerns, not to investigate allegations of sexual misconduct. Moreover, when Green framed the issue as a "rumor" and denied its occurrence, Sergeant L.B.'s failure to confront him in that setting is consistent with her expressed fear and discomfort.

Green further contends that, because Sergeant L.B. posed in a picture at a social outing next to Green after the kiss occurred, that the incident must not have occurred. It is, however, not necessary for Sergeant L.B. to remove herself from Green's presence at every opportunity to validate her claims.

Green also devotes considerable attention to allegations that Sergeant L.B. mistreated other coworkers and further asserts that Sergeant Robinson once told him that he was having sexual relations with Sergeant L.B., suggesting that this alleged statement demonstrates bias or collusion between them. To the extent Green contends that these assertions diminish the seriousness of the February 2024 incident or undermine the credibility of the witnesses, those arguments are also unpersuasive.

As an initial matter, both Sergeant L.B. and Sergeant Robinson unequivocally denied ever having a sexual relationship. Robinson specifically rebutted Green's claim that he made such an admission, and the parties stipulated that Sergeant L.B. would likewise deny any such relationship. The record contains no independent evidence corroborating Green's assertion. Green's unsupported claim is insufficient to discredit two otherwise credible witnesses.

Even if Sergeant L.B. and Sergeant Robinson maintained a close friendship outside of work, that fact alone would not render their testimony inherently unreliable. Friendships do not automatically establish motive to fabricate allegations of serious misconduct. Indeed, if the two had conspired to fabricate an allegation against the Superintendent, one would reasonably expect their accounts to align in every material detail. Instead, their testimony reflected minor variations, particularly regarding peripheral aspects of the kiss and the positioning of hands, while remaining consistent as to the essential facts. Such natural differences in recollection are indicative of independent memory, not coordinated fabrication.

As to the contention that Sergeant L.B. bullied or mistreated other coworkers, as the Commission recognized in *Carlson v. DOC*, Dec. No. 36922 (WERC, 5/17), a victim of harassment "does not have to be a saint." The just cause inquiry does not require the Commission to determine whether the complaining employee was universally well-liked or free from workplace conflict. Disagreements with coworkers or even evidence of abrasive behavior do not excuse or mitigate objectively inappropriate conduct by a superior. Nor do they transform unwelcome physical contact into permissible conduct. Even assuming that Sergeant L.B. had contentious

interactions with others, such circumstances would not grant a supervisor license to embrace her and kiss her without consent.

The Commission has also considered testimony suggesting tension between Green and certain sergeants over management changes. Even if friction existed, that fact does not negate the occurrence of misconduct. It is possible for employees to disagree with management and for misconduct to occur.

Finally, Green's position of authority heightens the seriousness of the conduct. The power imbalance between a Superintendent and a Sergeant is significant. Unwelcome physical contact and kissing in the workplace by the highest-ranking official constitutes a grave breach of professional standards and Department policy. The Department has therefore established that Green engaged in the alleged misconduct.

Turning now to a just cause consideration of the level of discipline Green received. Executive Directive 2 permits the Department to impose discipline, up to and including discharge, for serious acts of misconduct, even in the absence of prior discipline. Sexual harassment, particularly involving unwanted physical contact, constitutes serious misconduct. When perpetrated by the superintendent of a correctional facility, the misconduct is especially egregious. A superintendent is expected to model professionalism, maintain appropriate boundaries, and ensure a safe and respectful workplace. Engaging in non-consensual physical contact with a subordinate irreparably undermines institutional integrity and employee trust.

While Green had no prior discipline, progressive discipline is not required where the misconduct is sufficiently serious to warrant discharge as a first step. Given the nature of the conduct, the vulnerability of the subordinate employee, and Green's leadership position, discharge was a reasonable and proportionate response. The Department has met its burden of proving that Green engaged in the alleged misconduct and that the misconduct constitutes just cause for discharge and is therefore affirmed.

Issued at Madison, Wisconsin, this 5th day of March 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by: Peter G. Davis

Peter G. Davis, Chairman