

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MARCUS KING, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0855

Case Type: PA

DECISION NO. 41324

Appearances:

Marcus King, 840 Element Way, Apt. 325, Green Bay, Wisconsin, appearing on behalf of himself.

William H. Ramsey, 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 November 28, 2025, Marcus King (King) filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for five-days without just cause by the State of Wisconsin Department of Corrections (DOC). The matter was assigned to Commission Chairman Peter Davis and then reassigned to Commission Examiner Cara Larson.

A hearing was held on February 12, 2026, by Examiner Larson in Green Bay, Wisconsin. The parties made oral arguments at the conclusion of the hearing. On March 2, 2026, Examiner Larson issued a Proposed Decision and Order, modifying the five-day suspension of King by the DOC to a three-day suspension, and ordering he be made whole for the difference with interest.

On March 9, 2026, both King and the DOC filed objections to the proposed decision. No replies to the objections were received by the parties and the matter became ripe for Commission consideration on March 17, 2026.

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

FINDINGS OF FACT

1. Marcus King (King) is employed by the State of Wisconsin Department of Corrections (DOC) as Correctional Lieutenant at Green Bay Correctional Institution (GBCI) and had permanent status in class at the time of his suspension.

2. The DOC is a state agency responsible for the operation of various corrections facilities including GBCI, located in Green Bay, Wisconsin.

3. On February 5, 2025, King violated DOC policy by failing to remove an inmate on observation status from his cell and search the inmate and the cell to ensure the inmate possessed only PSU-approved property. As a result, unauthorized property remained with the inmate.

4. On February 5, 2025, King also violated DOC policy when he failed to activate his body worn camera while at an inmate's cell front from 8:37 p.m. to 8:41 p.m.

5. On February 6, 2025, King violated DOC policy by failing to promptly transfer a reportedly suicidal inmate to Restricted Housing Unit and remove unauthorized property, aside from the approved black mat and kilt.

7. The DOC suspended King for five days on August 13, 2025, for misconduct referenced in Finding of Facts 3, 4, and 5.

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 have just cause within the meaning of Wis. Stat. § 230.34 (1)(a) to suspend Marcus King for five days.

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

ORDER

The five-day suspension of Marcus King by the State of Wisconsin Department of Corrections is affirmed

Issued at Madison, Wisconsin, this 26th day of March 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman

MEMORANDUM ACCOMPANYING PROPOSED 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.

Marcus King 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 King 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 suspension of King resulted from three incidents, two occurring on February 5 and one occurring on February 6, 2025. On February 5, King allegedly failed to remove and properly search an inmate and the inmate's cell and also failed to activate his body-worn camera as required. On February 6, the incident involved King's handling of an inmate placed on clinical observation status, specifically his failure to immediately transfer the inmate to the Restrictive Housing Unit (RHU) and ensure compliance with property restrictions.

Turning first to the two February 5 allegations, the DOC alleged that on that date King failed to conduct the required search of an inmate and the inmate's cell, resulting in the retention of property not approved by the Psychological Services Unit (PSU). Only a kilt and black mat were approved for the inmate, but additional linen was later discovered in the cell. Security Director James Kent stated that the inmate should have been removed from his cell and that both the inmate and his cell should have been searched to ensure that only the items approved by PSU (a kilt and black mat) were in the cell. King did not do so. Linen, which was not on the approved property list, was later discovered in the inmate's cell. By failing to conduct the required search, King violated DOC policy.

Next, as to the body camera allegation, the evidence was largely undisputed. DOC presented video evidence showing that King's body-worn camera was not activated during an inmate contact on February 5 from 8:37 p.m. to 8:41 p.m. Supervisors testified that cameras must be activated during such interactions, and King admitted that he failed to turn the camera on and stated that it was a mistake. DOC therefore also proved King violated the camera policy. Accordingly, the Commission concluded that DOC proved February 5 violations.

Next, we turn to the February 6 incident. DOC alleged that King committed misconduct in handling an inmate placed on clinical observation status. According to the electronic medical record (EMR) note by Psychological Associate Sara Boyea, the inmate was placed on observation with property restrictions limited to a kilt and black mat. Although Boyea did not testify at the hearing, King did not dispute that she placed a note in the EMR indicating that the inmate was on clinical observation for suicidal ideation around 10:40 p.m. The note was entered into this hearing record as well. Instead of taking the inmate to RH immediately, and searching him to ensure he only possessed the approved property, King placed the inmate on observation in the Treatment Center (TC) and did not remove all other property, citing high institutional activity and multiple ongoing incidents. To his credit, King did periodically check on the inmate, including around 4:17 a.m., at which time the inmate denied suicidal ideation. First-shift supervisors subsequently transferred the inmate to RHU around 6:30 a.m. Unit Supervisor Ross Hofmann testified that immediate transfer to RHU was possible, as two RHU beds were available. By failing to promptly transfer the inmate to RHU and ensure the property restriction compliance, King deviated from established policy. The Commission finds that DOC therefore has also proven King engaged in misconduct on February 6.

Turning now to a just cause consideration of the level of discipline King received. Policies governing searches, body camera activation, and the placement of suicidal inmates in designated observation units with restrictions on property are essential for maintaining inmate and staff safety. Supervisory officers, including lieutenants such as King, are expected not only to comply with these requirements but also to lead by example. Although there is no evidence that actual harm occurred, King's failures raised safety concerns. As a supervisory officer, King bears heightened responsibility to ensure strict compliance with these policies, and his deviations constitute misconduct warranting disciplinary action.

King had a prior one-day suspension at the time of these three instances of misconduct. The Commission concludes that the combination of King's misconducts provided just cause for a skip in the standard disciplinary progression schedule to the five day suspension DOC imposed. Accordingly, the Commission affirms the five-day suspension.

Issued at Madison, Wisconsin, this 26th day of March 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman