

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

AUSTIN MANNING, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0890

Case Type: PA

DECISION NO. 41428-A

Appearances:

Dorena Hernandez, 1608 Deane Blvd., Racine, Wisconsin, appearing on behalf of Austin Manning.

Eric Muellenbach, Attorney, Department of Corrections, Office of Legal Counsel, 3099 E. Washington Ave., Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On February 24, 2026, Austin Manning filed an appeal with the Wisconsin Employment Relations Commission asserting that he had been suspended for five-days without just cause by the State of Wisconsin Department of Corrections. The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

A hearing was held via Zoom on April 13, 2026, by Examiner Lisiecki. The parties made oral closing arguments at the end of the hearing. On May 6, 2026, Examiner Lisiecki issued a Proposed Decision and Order, affirming the five-day suspension of Manning by the DOC. Manning untimely filed objections to the Proposed Decision on May 15, 2026, and the DOC filed a response the same day, whereas the matter became ripe for Commission consideration.

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

FINDINGS OF FACT

1. Austin Manning (Manning) is employed by the State of Wisconsin Department of Corrections (DOC), as a correctional officer at Racine Correctional Institution (RCI). He had permanent status in class when he was suspended.

2. On September 22, 2025, Manning was scheduled to begin work at 10:30 p.m. He

did not arrive at work until 12:15 a.m.

3. Following an investigation, the DOC suspended Manning for five days for unexcused or excessive absenteeism or tardiness and failure to comply with written agency policies or procedures.

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 had just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Austin Manning 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 Austin Manning by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 12th day of June 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.

Austin Manning 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 Manning 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).

Austin Manning (Manning) is employed as a correctional officer at Racine Correctional Institution (RCI). On September 22, 2025, Manning was scheduled to begin work at 10:30 p.m. At 10:42 p.m., his supervisor attempted to contact him via phone but was unsuccessful. At 11:45 p.m., Manning's supervisor was able to get in touch with Manning, who said he was on his way to work. He did not arrive at work until 12:15 a.m. This was Manning's sixth incident of tardiness in 2025.

Manning argues that he has sleep apnea, which made it challenging to wake up on time for work. However, Manning did not ask for an accommodation regarding this condition. The Commission has previously held that employees are responsible for managing their health issues and ensuring that they do not interfere with the performance of their duties. *See McWilliams v. DOC*, Dec. No. 41243 (WERC, 11/25).

Manning further argues that a five-day suspension is excessive. However, Manning previously received a written reprimand in lieu of a three-day suspension for unexcused or excessive absenteeism or tardiness. *See Exhibit R-7*. Therefore, this five-day suspension represents progressive discipline. Manning arrived at work nearly two hours late without a good reason, and thus there was just cause for discipline. Therefore, Manning's five-day suspension is affirmed.

Issued at the City of Madison, Wisconsin, this 12th day of June 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman