

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

T.P., Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0884

Case Type: PA

DECISION NO. 41459

Appearances:

T.P., appearing on his own behalf.

Nicole Porter, Attorney, 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 January 27, 2026, T.P. filed an appeal with the Wisconsin Employment Relations Commission asserting that he had been suspended for one-day without just cause by the State of Wisconsin Department of Corrections. The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

On September 16, 2025, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Lisiecki was granted final authority to issue the Commission's decision. A hearing was held via Zoom on April 1, 2026, by Examiner Lisiecki. The parties made oral closing arguments at the end 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. T.P. is employed by the State of Wisconsin Department of Corrections (DOC), as a Corrections Communications Operator with the DCC Monitoring Center. He had permanent status in class when he was suspended.

2. On August 11, 2025, T.P. was observed sleeping at his desk while at work.

3. Following an investigation, the DOC issued T.P. a one-day suspension for inattentiveness.

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 issue T.P. a one-day suspension.

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

ORDER

The one-day suspension of T.P. by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 14th day of May 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Katherine Scott Lisiecki

Katherine Scott Lisiecki, Hearing Examiner

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.

T.P. 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 T.P. 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).

T.P. is employed as a Corrections Communications Operator at the DCC Monitoring Center. On August 11, 2025, T.P.'s supervisor Kiley Bruncker observed T.P. sleeping at his desk while at work.

It is uncontested that T.P. has a sleep disorder which causes him to experience "excessive daytime sleepiness" and "brief episodes of uncontrollable sleep," per his doctor. *See* Exhibit A-3. He has been given accommodations for his sleep disorder, including extra breaks and a desk lamp. T.P. does not, however, have an accommodation allowing him to sleep while on duty.

T.P. argues that, on the date in question, he was changing medications, which affected his ability to stay awake. However, if T.P. was having additional challenges, he should have brought this to his supervisor's attention or utilized sick leave. The Commission has previously held that employees are responsible for managing their health issues and ensuring that these do not interfere with the performance of their duties. *See McWilliams v. DOC*, Dec. No. 41243 (WERC, 11/25). T.P. is ultimately responsible for making sure that his sleep disorder does not cause him to fall asleep on the job.

T.P. argues that he spends the majority of his time verifying sex offender records, which is not a time-sensitive duty, and therefore it does not matter whether he falls asleep on the job. However, as part of his duties, T.P. is required to be a point of contact and initial response for the statewide Electronic Monitoring System, which includes tracking movement of monitored individuals, responding to possible violations, answering law enforcement inquiries, and serving as a point of contact for electronic monitoring equipment issues. *See* Exhibit R-2, pg. 3. Supervisor

Grace Knutson credibly testified that being inattentive on duty could affect these responsibilities. Further, Justin Webster, the deputy director of the monitoring center, credibly testified that, regardless of whether employees are working on the Electronic Monitoring System, sleeping while on duty affects the center's credibility and employee morale.

T.P. has no prior discipline for the purposes of progressive discipline, and this one-day suspension is in line with progressive discipline. Although T.P. has a sleep disorder, he has been given accommodations. Ultimately, he is responsible for managing his health conditions. His inattentiveness – particularly in a position requiring attentiveness – justifies issuing this one-day suspension. Therefore, the suspension is affirmed.

Issued at the City of Madison, Wisconsin, this 14th day of May 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Katherine Scott Lisiecki

Katherine Scott Lisiecki, Hearing Examiner