

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

FAMARA JABANG, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0200

Case Type: PA

DECISION NO. 41464-B

Appearances:

Shunette Campbell-Hunter, P.O. Box 14687, Madison, Wisconsin, appearing on behalf of Famara Jabang.

David G. Makovec, 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 Health Services.

DECISION AND ORDER

On May 21, 2026, Examiner Anfin J. Wise issued a Proposed Decision and Order affirming the discharge of Famara Jabang by the State of Wisconsin Department of Health Services (DHS). On June 4, 2026, the Wisconsin Employment Relations Commission remanded the matter to Examiner Wise for analysis of disparate treatment allegations and to give Jabang the opportunity to present any relevant additional evidence to cure any due process/discovery issues. No such hearing was requested or conducted.

On July 9, 2026, Examiner Wise issued a Proposed Decision and Order on Remand again affirming the discharge. Jabang filed objections on July 17, 2026. DHS did not file a response to the objections and the matter became ripe for Commission consideration on July 23, 2026.

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

FINDINGS OF FACT

1. Famara Jabang (Jabang) is a black man employed by the State of Wisconsin Department of Health Services (DHS), as a Psychiatric Care Technician (PCT) at Mendota Mental Health Institute (MMHI) and had permanent status in class at the time of his discharge.

2. The DHS is a state agency responsible for the operation of various mental health facilities including MMHI, a psychiatric hospital, located in Madison, Wisconsin.

3. On December 15, 2025, Jabang negligently entered a building within the MMHI with a fully loaded handgun in his backpack.

4. On December 15, 2025, Jabang knowingly provided false information to the Madison Police Department when questioned about bringing his handgun into the building.

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 Health Services had just cause within the meaning of Wis. Stat. § 230.34(1)(a) to discharge Famara Jabang.

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

ORDER

The discharge of Famara Jabang by the State of Wisconsin Department of Health Services is affirmed.

Issued at Madison, Wisconsin, this 7th day of August 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.

Famara Jabang 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 Jabang was guilty of the alleged misconduct and whether 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).

Mendota Mental Health Institute is a psychiatric hospital primarily serving men in need of court-ordered mental health competency evaluations, treatment to competency services, and treatment as the result of being found not guilty of criminal activity by reason of mental illness. Since January 2022, Famara Jabang (Jabang) was a Psychiatric Care Technician (PCT). As a PCT, he was responsible for participating in the implementation of patient treatment plans, completing delegated tasks assigned by the charge nurse, utilizing therapeutic communication, and performing therapeutic activities for and with patients. DHS policy prohibits bringing any weapons into the buildings of MMHI.

On October 25, 2025, Jabang arrived at work as scheduled and entered his building within the MMHI with a fully loaded handgun in his backpack. After badging himself into the main lobby, he placed his backpack on the x-ray machine. He then badged into the work unit, grabbed his backpack off the end of the x-ray conveyer belt, then immediately rushed out of the building. The security guard did not notice the handgun immediately on the x-ray scanner screen, due to a technology delay and likely, a lack of attention. However, as soon as he saw the scan of the handgun, he tried to find the employee responsible. He did not see anyone down the unit hallway and also did not notice that Jabang had re-entered the building, re-scanned his backpack, and entered the work unit to go about his day.

The MMHI campus was then locked down, and the Madison Police Department (MPD) was called. At this point, it was not certain whether Jabang had possession of the firearm and brought it on to the unit or whether he disposed of the handgun when he hastily exited the building. After an investigation by the facility, it was confirmed that Jabang was the suspect in question who

brought the handgun into the building. When questioned by the MPD, Jabang denied bringing the handgun into the building. After being confronted with the lobby video evidence, Jabang admitted that he had, in fact, brought a firearm into the building in his backpack, placed it on the x-ray scanner, took the backpack, exited the building, placed his handgun in his vehicle, and then returned with his backpack sans handgun and went about his workday. He asserted that he forgot that he had the handgun in his backpack, but as soon as he remembered, he took it out of the building and placed it in his vehicle. The MPD then confirmed that the handgun was in Jabang's vehicle and that Jabang had a legal permit to carry a concealed weapon.

At the hearing, Jabang denied any wrongdoing, did not take responsibility for his actions that day, and contended that formal discipline was not warranted. He portrays himself as an employee who made an innocent mistake and then was simply confused when interacting with law enforcement. The Commission does not find that portrayal to be credible. Contrary to Jabang's position, as reflected in Findings of Fact 4 and 5, the Commission has concluded that Jabang engaged in two significant acts of misconduct by negligently bringing a loaded handgun to work and then knowingly providing false information to law enforcement during the subsequent investigation.

Turning now to the level of discipline imposed here, Jabang brought a fully loaded firearm into a secure mental health facility and then was not truthful with law enforcement. There is no question that these two acts of misconduct warrant a severe level of discipline. While Jabang had no prior disciplinary history, the Commission finds that Jabang's two acts of misconduct provide just cause for discharge.

When reaching this determination, the Commission did consider Jabang's assertion that he was being treated more harshly than white employees. Jabang's only evidence in support of that claim was the level of discipline (or lack thereof) received by other employees. To successfully prove this disparate impact claim, Jabang must prove that he is being treated differently than white DHS MMHI employees who had similar work records, were subject to the same work rules and engaged in the same misconduct. *See Morris v. DOC*, Dec. No. 35682-A (WERC, 7/15).

Jabang did not successfully prove disparate impact. Importantly, none of the matters he raises involved being untruthful to law enforcement. Thus, he cannot meet the "same misconduct" component to the disparate treatment test.

As to the specific instances he did raise, the employee who failed to detect Jabang's handgun when it passed thru the x-ray machine did not engage in the "same misconduct" as Jabang. The employee who brought a cheese cutter to work at least arguably engaged in the same "weapons" misconduct as Jabang, but there clearly is a distinction between a cheese cutter and a loaded handgun. Nonetheless, DHS presented evidence of a February 2026 discharge of an employee who concealed and brought a safety cutter into a DHS mental health treatment facility. This evidence blunts the potential import of the cheese cutter episode in a disparate impact analysis.

The Commission also considered Jabang's due process claims. As noted in the Remand Order, there is a strong argument that those claims were waived. But, even assuming any legitimacy, the remand gave Jabang an opportunity to present any additional evidence and cure any due process issues. He did not request a hearing.

Given all of the foregoing, the discharged is affirmed.

Issued at the City of Madison, Wisconsin, this 7th day of August 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman