

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MATTHEW MCMAHON, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0922

Case Type: PA

DECISION NO. 41474-A

Appearances:

Sean Daley, Business Agent, AFSCME Council 32, AFL-CIO, N1463 Second Street Road, Watertown, Wisconsin, appearing on behalf of Matthew McMahon.

Nicole Porter, Attorney, Department of Administration, 101 E. Wilson St., 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On April 20, 2026, Matthew McMahon (McMahon) filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for three days without just cause by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Commission Examiner Cara Larson.

A Zoom hearing was held on June 16, 2026, by Examiner Larson. The parties made oral closing arguments at the end of the hearing. On July 16, 2026, Examiner Larson issued a Proposed Decision and Order affirming the three-day suspension of McMahon by the DOC. On July 21, 2026, McMahon filed objections to the Proposed Decision. On July 27, 2026, DOC filed a response to the objections and 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. Matthew McMahon (McMahon) is employed by the State of Wisconsin Department of Corrections (DOC), as a Correctional Sergeant at Green Bay Correctional Institution (GBCI) and had permanent status in class at the time of his discipline.

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

3. On October 29 and into the 30, 2025, McMahon worked a 16-hour shift in the Treatment Center. His assigned relief did not report at the end of his shift, he knew he had not received proper relief, and that no supervisor had authorized him to leave. Nevertheless, he left the institution at approximately 2:00 a.m. after notifying the Control Center of his departure. He did not attempt to contact a supervisor before leaving.

4. Following an investigation, the DOC issued a three-day suspension to McMahon effective February 9, 2026, 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 issue Matthew McMahon a three-day suspension.

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

ORDER

The three-day suspension of Matthew McMahon by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 4th 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.

Matthew McMahon had permanent status in class at the time of his discipline, and his appeal alleged that the discipline was not based on just cause.

The State has the burden of proof to establish that McMahon 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 material facts are largely undisputed. McMahon worked a 16-hour shift in the Treatment Center on October 29 to 30, 2025. His assigned relief did not report at the end of his shift. McMahon knew he had not received proper relief. He also knew that no supervisor had authorized him to leave. Nevertheless, he left the institution at approximately 2:00 a.m. after notifying the control center of his departure. He did not attempt to contact a lieutenant, captain, or other supervisor before leaving.

The Department's expectations were that employees assigned to posts requiring relief must remain on duty until properly relieved or until a supervisor authorizes their departure. Warden Stevens, Lieutenant Pollock, and Captain Van Lanen all testified consistently on this point. Although staff may check out through the control center when supervisors are occupied, the control center does not have authority to approve an employee's departure from a relief-required post.

McMahon argues that the Treatment Center remained adequately staffed because two experienced officers remained on the unit and that reduced staffing was common there. Even if true, that argument misses the central issue. The Department did not discipline McMahon because the unit became unsafe or inoperable. It disciplined him because he left a relief-required post without notifying a supervisor and without obtaining authorization to leave. The Department reasonably expects supervisors to make staffing decisions affecting institutional operations. McMahon did not give management that opportunity.

McMahon also argues that supervisors were occupied elsewhere and that checking out through the control center reflected common practice. The record establishes, however, that

employees are still expected to attempt to contact a supervisor. Lieutenant Pollock testified that several methods were available, including radio, telephone, or requesting that control locate a supervisor. McMahon acknowledged that he made no such attempt. The Department therefore proved that the misconduct occurred.

Turning now to the level of discipline imposed. The record established that McMahon had a one-day suspension on his record at the time. The next step in the progressive discipline schedule is a three-day suspension. The Department followed its progressive discipline process, and the discipline was not excessive.

Given the foregoing, the DOC had just cause to issue a three-day suspension and the discipline is affirmed.

Issued at Madison, Wisconsin, this 4th day of August 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman