

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JEREMY BROCKMAN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0923

Case Type: PA

DECISION NO. 41533

Appearances:

Jeremy Brockman, 117 Pleasant Ave., Waupun, Wisconsin, appearing on his own behalf.

David Makovec, 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 Health Services.

DECISION AND ORDER

On May 8, 2026, Jeremy Brockman (Brockman) 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 Katherine Scott Lisiecki, and subsequently reassigned to Examiner Cara Larson.

A hearing was held via Zoom on July 30, 2026, and August 5, 2026, by Examiner Larson. The parties made oral closing arguments at the end of the hearing. On August 7, 2026, Examiner Larson issued a Proposed Decision and Order rejecting the three-day suspension of Brockman by the DOC. No objections to the Proposed Decision were filed by the parties, and the matter became ripe for Commission consideration on August 13, 2026.

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

FINDINGS OF FACT

1. Jeremy Brockman (Brockman) is employed by the State of Wisconsin Department of Corrections (DOC), as a Correctional Officer 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 Department of Corrections institutions including Waupun Correctional Institution (WCI), located in Waupun, Wisconsin.

3. In September 2025, while off duty, Brockman sent private Facebook messages to a friend that contained derogatory comments about a person he believed had gone on a date with his former girlfriend. Brockman did not post the messages publicly, identify himself as a Department employee, or send the messages to or about a Department employee.

4. After an investigation, the DOC suspended Brockman for three days 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 did not have just cause within the meaning of Wis. Stat. § 230.34 (1)(a) to suspend Jeremy Brockman for three days.

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 Jeremy Brockman by the State of Wisconsin Department of corrections is rejected and he shall be made whole with interest.¹

Issued at Madison, Wisconsin, on the 28th day of August 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman

¹ See Wis. Admin. Code § ERC 94.07.

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.

Jeremy Brockman had permanent status in class at the time of his discipline, and his appeal alleges that the discipline was not based on just cause.

The State has the burden of proof to establish that Brockman 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 facts are largely undisputed. In September 2025, while off duty, Brockman exchanged private Facebook messages with a friend regarding a person he believed had gone on a date with his former girlfriend. Neither the person referenced in the messages nor the friend who received the messages was a Department employee. The messages included statements such as:

“I’ll beat his ass.”

“Fuck Him I’m out for blood.”

“Dirty Mexican I’m going to get him a drunk driving or 2.”

“Dudes going to get what he has coming.”

“Nope fuck that dirty Mexican.”

“Fuck that guy.”

“Dirty Mexican.”

“I got that dirty fucker tagged on his vehicle.”

The Department relied primarily on Executive Directive 5 and Work Rule 14. Executive Directive 5 addresses harassment and discrimination in the workplace. Work Rule 14 prohibits intimidating, interfering with, harassing, demeaning, treating others discourteously, bullying, or using profane or abusive language in dealing with others.

The Department has the burden to prove that it had just cause to discipline Brockman. An employee’s off-duty conduct may warrant discipline when it has a sufficient connection to the workplace or adversely affects the employee’s ability to perform assigned duties. However, offensive or inappropriate conduct, standing alone, does not establish a basis for discipline. The

Department must not only show that the employee's conduct falls within the scope of the cited rule, but also that the off-duty conduct has a sufficient nexus to the workplace or had a meaningful impact on the Department's operations to warrant discipline.

There is no dispute that Brockman's messages contained profane, derogatory, and offensive language. The Commission does not condone that conduct. The issue, however, is not whether the messages were offensive. Nor does the Commission suggest that such language is appropriate simply because it occurs off duty. The issue, however, is whether the Department established that Brockman's private, off-duty communication had a sufficient connection to the workplace in order to justify discipline.

Here, Brockman sent the messages privately to a friend while off duty. He did not make the messages public, identify himself as a Department employee, or send the messages to or about a Department employee. Neither the recipient of the messages nor the person referenced in them was employed by the Department. The messages reached that person only because Brockman's friend purportedly shared them or left his phone unattended, allowing another person to access the messages. Although the messages were reported to law enforcement, no charges were pursued. The Department did not establish that the messages disrupted the workplace, interfered with Department operations, impaired working relationships, or otherwise created a sufficient connection to the workplace.

Accordingly, the Department lacked just cause to impose the three-day suspension and the suspension is rejected.²

Issued at Madison, Wisconsin, on the 28th day of August 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman

² Brockman's discipline is rejected, but he should not read this decision as a vindication of his underlying conduct. His messages were derogatory, offensive, and inappropriate. The fact that DOC failed to prove elements of its case does not mean the Commission condones Brockman's behavior. He would be wise to examine and modify his behavior and treat people with basic respect and decency.