

AFSCME Council 24

WISCONSIN STATE EMPLOYEE UNION, AFL-CIO

Arbitration Award Summary

WON:		CONTRACT:	'01-'03
LOST:		CASE NO.:	19845
SPLIT:	XXX		
ISSUE:	SUSPENSION – fraternization	PROVISIONS:	Art. 4, Section 9
ARBITRATOR:	JAY E. GRENIG	LOCAL:	18
HEARD:	12/19/05	BARG. UNIT:	SPS
AWARD:	1/2/06	EMP. UNIT:	DOC – JCBCC

This is a non-precedential expedited award.

The Grievant was employed as a correctional sergeant at the John Burke Center, a minimum security work-release camp. The Grievant was a transportation officer responsible for transporting inmates to medical appointments and other off-grounds activities. The Grievant was suspended without pay for thirty days beginning on 11/24/03 for violating Work Rules #1 – failure to carry out instructions; and #2 – failure to follow policy/procedure, including fraternization. The Employer alleged that the Grievant purchased a meal for an inmate without submitting a request for reimbursement. The Employer also alleged that the Grievant made unauthorized off-grounds personal stops while with inmates, including making personal purchases at a shopping mall while with an inmate.

The Grievant argued that the suspension was without just cause. She argued that she purchased a meal for an inmate while returning from a medical appointment and did not think about putting in a voucher for it. She also asserted that she had never been told she could not purchase personal items while on a trip with an inmate, and pointed out that she has taken inmates to medical appointments in shopping malls. Nothing in the Grievant's Post Orders contained any specific orders about purchasing food or stopping at a shopping mall.

The Employer argued that the Grievant's actions violated release orders and orders regarding transportation of inmates and constituted a breach of public trust and safety. The Employer argued that its use of the thirty day suspension was justified.

The Arbitrator noted that there was nothing wrong with the Grievant purchasing the meal for the inmate, but that the problem was that the Grievant did not submit a request for reimbursement. The Arbitrator pointed out that there was no indication that the inmate thought the Grievant was paying for the meal from personal funds. The Arbitrator concluded that the Grievant's failure to request reimbursement did not justify a thirty-day suspension. The Arbitrator did state that it is inappropriate for a correctional officer to engage in personal shopping at a public shopping mall while transporting inmates, especially when the inmates are brought into the mall. The Arbitrator found that the Grievant failed to show that the temporary release orders authorized her to stop at the shopping mall. The Arbitrator further noted that the Grievant was engaged in personal errands while on the payroll.

The Arbitrator concluded that there was not just cause for the thirty-day suspension, but that there was just cause for a five-day suspension. The Arbitrator ordered the suspension reduced from thirty days to five days and the Grievant made whole for lost wages and benefits resulting from the thirty day suspension.