

# ***AFSCME Council 24***

WISCONSIN STATE EMPLOYEE UNION, AFL-CIO

*Arbitration Award Summary*

**WON:**  
**LOST:** XXX  
**SPLIT:**

**CONTRACT:** '01-'03  
**CASE NO.:** 21333

**ISSUE:** 30-day suspension, porn on internet  
**PROVISIONS:** Art. 4/9

**ARBITRATOR:** JAY E. GRENIG  
**HEARD:** 12/18/06  
**AWARD:** 12/21/06

**LOCAL:** 2748  
**BARG. UNIT:** PSS  
**EMP. UNIT:** DOC – DCI

**This is a non-precedential expedited award.**

The Grievant was employed as a social worker at Dodge Correctional Institution with more than 20 years seniority. On 5/24/05, the Employer gave the Grievant written notice of a 30-day suspension without pay. The letter stated that the Grievant was being suspended for violating Work Rules #2 – failure to follow policy or procedure; #3 – inattentiveness, sleeping or engaging in unauthorized activities; and #29 – unauthorized/improper use of state or private property. The letter alleged that between 11/30/05 and 1/31/05, the Grievant spent at least 5 hours viewing pornographic websites from his DOC internet connection. The letter also alleged that the Grievant used his DOC internet connection to access a personal e-mail account about 3 times per week. Finally, between 1/1 and 1/25/05, the Grievant made 22 personal phone calls from his office phone. The calls lasted between 1 and 80 minutes. In addition to suspending the Grievant, the Employer deducted 5 hours of his accrued annual leave to compensate the employer for the time he spent engaged in non-work related activities.

The Employer argued that its Executive Directive #50 prohibits employees from viewing obscene material not specifically related to an approved work activity and also prohibits employees from accessing personal e-mail accounts from state computers. The Employer's Procedure 020.3 states that state telephones may be used for personal calls only in emergencies, only with the supervisor's permission, and charged to the employee's home phone number collect. The Employer argued that the suspension was appropriate given the number and type (teen, hardcore) of porn sites visited, the time spent doing so, the use of the state computer to access personal e-mail, the amount of time spent on personal phone calls, his licensed position as a social worker and his function as a role model for inmates.

The Union argued that the Grievant's discipline was not consistent with that imposed on other employees for similar offenses and also noted the Grievant's long-time employment at DCI without discipline.

The Arbitrator concluded that the Employer had just cause for suspending the Grievant. The Arbitrator noted that in light of previous upheld suspensions of 2 weeks and more than 20 weeks for viewing pornography on State computers and in light of the egregiousness of the Grievant's conduct, the Grievant's 30-day suspension was not unreasonable. The Arbitrator noted that if the Employer had not taken reasonable corrective action, the Grievant's conduct could have exposed the Employer to the risk of lawsuits for hostile work environment sexual harassment and could also have exposed the Employer to damaging publicity. The Arbitrator noted that the Grievant's accessing his personal e-mail was inappropriate and could have exposed the Employer to viruses or spyware. The Arbitrator also noted that the Grievant's use of state phones for personal calls was improper, and concluded that the Employer's deducting 5 hours of the Grievant's accrued annual leave was not unreasonable.

The Arbitrator denied the grievance.