

# ***AFSCME Council 24***

WISCONSIN STATE EMPLOYEE UNION, AFL-CIO

## *Arbitration Award Summary*

<b>WON:</b>	<b>XXX</b>	<b>CONTRACT:</b>	'01-'03
<b>LOST:</b>		<b>CASE NO.:</b>	21670
<b>SPLIT:</b>			
<b>ISSUE:</b>	Suspension – Fraternization	<b>PROVISIONS:</b>	Art. III; Art. IV Section 9
<b>ARBITRATOR:</b>	JAY E. GREINIG	<b>LOCAL:</b>	2748
<b>HEARD:</b>	10/2/06	<b>BARG. UNIT:</b>	PSS
<b>AWARD:</b>	10/9/06	<b>EMP. UNIT:</b>	DOC - GCC

### **This is an expedited non-precedential award.**

The Grievant was working as a social worker at the Gordon Correctional Center. On July 12 and July 14, 2004, the Grievant and a captain escorted two inmates to off-ground activities at a church. On July 12, the Grievant and the captain took the two inmates to a pizza restaurant, where the captain paid for the inmates' meals. On May 16, 2005, the Employer suspended the Grievant for 30 days for violating the fraternization policy and failing to report that the captain paid for the inmates' meals.

The Employer noted that the relevant Temporary Release forms were not completed correctly and asserted that the Grievant should have assured that they had been completed properly. The Employer also asserted that the Grievant knew that employees are not allowed to pay for inmates' meals. The Employer argued that the suspension was for just cause and requested that the grievance be denied.

The Union argued that the Grievant was given permission to take the inmates off grounds and to provide them with a meal while off grounds. The Union pointed out that the captain was responsible for security on the trip and signed the Temporary Release forms. The Union contended that the suspension was not for just cause and asked that the grievance be sustained and the Grievant made whole.

The Arbitrator noted that under the arbitral standard of just cause, employers must have some demonstrable reason for imposing discipline and noted that it is unfair to punish employees for conduct they have no reason to know would be unacceptable. The Arbitrator then noted that the captain, not the Grievant, was responsible and in charge of security issues on the trips in question in this case. The Arbitrator noted that the grievant understood that the captain had obtained permission for the trips and the meal, which the captain paid for. The Arbitrator concluded that since the Grievant understood that the captain was in charge and had obtained all necessary approvals, the Grievant had nothing to report. The Arbitrator further stated that the Grievant could not be disciplined for rule violations the captain may or may not have committed.

The Arbitrator concluded that the suspension was not for just cause and directed the Employer to expunge the suspension from the Grievant's record and to make her whole for lost wages, benefits, and seniority.