

FILED  
08-27-2021  
Clerk of Circuit Court  
Kenosha County  
2021CV000786  
Honorable Angelina  
Gabriele  
Branch 6

**STATE OF WISCONSIN  
KENOSHA COUNTY**

**CIRCUIT COURT**

**BILL E. BETH  
c/o MacGillis Wiemer, LLC  
11040 W. Bluemound Road, Suite 100  
Milwaukee, WI 53226,**

**Petitioner,**

**vs.**

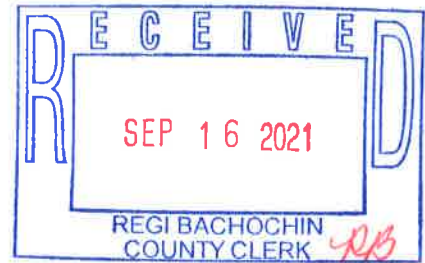
**KENOSHA COUNTY  
1010 56th Street  
Kenosha, WI 53140**

**and**

**KENOSHA COUNTY FINANCE/  
ADMINISTRATION COMMITTEE  
County Administration Building  
1010 56th Street, Second Floor  
Kenosha, WI 53140,**

**Respondents.**

**Case No:  
Case Code: 30955  
Case Type: Petition for  
Writ of Certiorari**



**PETITION AND COMPLAINT FOR REVIEW BY CERTIORARI**

NOW COMES the above-named Petitioner, Bill E. Beth, by his attorneys MacGillis Wiemer, LLC, by Attorney Christopher J. MacGillis and Attorney Kevin P. Todt, who shows and alleges to the Court as follows:

1. The Petitioner, Bill E. Beth ("Beth"), is an adult resident of Kenosha County and was employed as a Sergeant at the Kenosha County Sheriff's Office ("Sheriff's Office").
2. Respondent, Kenosha County (the "County") is a municipal corporation, organized and existing under the laws of the State of Wisconsin with offices located at 1010 56th Street, Kenosha, WI 53140, and can be reached via telephone at (262) 653-2460.

3. Respondent, Kenosha County Finance/Administration Committee ("Committee") is an administrative board of the County established pursuant to Wis. Stat. §§ 63.10 and 63.12, having jurisdiction over certain appeals of discipline recommended by Kenosha County Sheriff David Beth.

4. Beth was promoted to Captain of the Sheriff's Office in 2019 and was assigned to serve as Captain of the Detentions Division.

5. During the time Beth was serving as Captain of Detentions, an internal investigation was opened against the Captain of the Operations Division related to supervisor time off.

6. As a result of the investigation referenced in Paragraph 5, Beth was assigned to serve as Captain of the Operations Division on January 3, 2021.

7. In the course of his duties as Captain of the Operations Division, Beth attempted to codify the practice of the Department related to off days for supervisors due to widespread uncertainty among the supervisors.

8. Kenosha County Chief Deputy Marc Levin ("Chief Deputy Levin") filed charges against Beth, then-Captain Bill Beth, with the Committee Chair on May 6, 2021 alleging misconduct stemming from Beth's actions identified in Paragraph 7. The charges were served on Beth May 14, 2021 and Petitioner requested an appeal with the Committee that same day.

9. The charges filed against Petitioner by Chief Deputy Levin are as follows:

**Kenosha County Sheriff's Departmental Policies:**

- Policy 101 Standards of Conduct:
  - o 101.3.1 Unlawful or Conflicting Orders;
  - o 101.4(c), (d), (e) Direct Lines of Reporting - Chain of Command;
  - o 101.5(a), (c), (e) Supervisory Responsibilities;
  - o 101.7.1(a), (b), (c) Laws, Rules and Orders;
  - o 101.8.2(a), (b), (c) Efficiency;
  - o 101.8.3(a), (c) Performance; and
  - o 101.8.4(h), (o) Conduct.
- Policy 110 Investigations:

- 110.4.2(k) Internal Affairs Investigation Interviews.
- Policy 118 Leave Time and Scheduling.

**Kenosha County Civil Service Ordinances:**

- MCKC § 4.01(6)(a):
  - 4. Insubordination;
  - 5. Neglect or dereliction of duty;
  - 6. Willful neglect or disobedience of any legal order of superior officers or legal departmental rule;
  - 8. Conduct that adversely affects the morale or efficiency of the Sheriff's Department;
  - 10. Conduct that has a tendency to destroy, or distract from the officer's credibility as a witness in court;
  - 13. Making a false official statement or entry in official records; and
  - 21. Any other act or omission contrary to good order and discipline, or constituting a violation of any of the rules and regulations of the department.

**Kenosha County Code of Conduct:**

- 1. Behavior that is unprofessional, disrespectful, unethical or discourteous with coworkers, managers, clients, vendors, or to the citizens of Kenosha County or not reporting same to management;
- 2. Insubordination, refusing to follow direction from a supervisor or manager, or making false statements;
- 3. Performance that is not meeting expectations and/or not satisfactorily fulfilling job responsibilities including not completing assignments within expected timeframe;
- 4. Violating any federal or state law or codes, local ordinances, and any regulations that govern their respective departments;
- 14. Sabotaging another's work or intentionally causing delay of work, either employee's own or that of others or causing disruption in the workplace;
- 17. Making malicious, false and harmful statements about others; and
- 23. Falsifying or intentionally misrepresenting records, statements, claims or reports, including employee's own time records or the time records of another employee.

**Captain Position Description:**

- The rank of Captain is responsible for exercising "seasoned judgment," assisting in the formulation of Departmental policies and procedures, and ensuring that County and Departmental rules, regulations, and policies are enforced at all times.

10. Prior to the above charges, Beth's record lacked any significant previous disciplines during his 25 years of service with the Sheriff's Office.

11. Petitioner asserts that the charges brought against him by Chief Deputy Levin are unsupported by the factual record and/or legal standards.

12. Based on the charges alleged by Chief Deputy Levin, Chief Deputy Levin incorrectly found that there was just cause to reduce Beth's rank from Captain to Sergeant.

13. As stated in paragraph 8, Beth immediately and timely requested an appeal to the Committee.

14. The seven-member Committee heard and decided the appeal. The Committee submitted a Decision on June 22, 2021, after hearings and deliberations were held on June 2, June 3, June 8, June 14, and June 16, 2021. The Chair of the Committee filed a Dissent from the Decision on June 22, 2021. A copy of the Decision, the Chair's Dissent, and the cover letter dated June 23, 2021, are attached as **Exhibit A**.

15. The Committee's Decision incorrectly concluded that Beth had violated the Department Policies, the Civil Service Ordinance, and the County Code of Conduct as charged by Chief Deputy Levin.

16. The Committee's Decision incorrectly concluded that Chief Deputy Levin had proven, by a preponderance of the evidence, that the Seven Tests of Just Cause—as defined in Wis. Stat. § 59.26(8)(b)5m—were met as to the specified charges against Beth.

17. The Committee's Decision should be reversed because there is not sufficient evidence demonstrating just cause—as defined in Wis. Stat. § 59.26(8)(b)5m—to sustain the charges against Beth.

18. The Committee proceeded on an incorrect theory of law, exceeded its jurisdiction, lacked sufficient evidence to reach its decision, and acted in an arbitrary, oppressive, and unreasonable manner representing its will and not its judgment by:

- a. Demoting Beth when demotion was not proper;
- b. Making findings that were not supported by the record; and
- c. Ordering a penalty which was excessive and unreasonable.

**WHEREFORE**, the Petitioner requests that the court review the proceedings of the Board as set forth in this Complaint and enter Judgment:

- a. Reversing the Committee's decision;
- b. Providing back pay to the Petitioner for the reduction in compensation when demoted to Sergeant;
- c. Reinstating Petitioner to the position of Captain within the Sheriff's Office; and
- c. For such other relief as the court deems just and proper.

Dated at Milwaukee, Wisconsin, this 27<sup>th</sup> day of August, 2021.

**MacGILLIS WIEMER, LLC**  
Attorneys for the Petitioner, Bill Beth



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Christopher J. MacGillis  
State Bar No. 1068944  
Kevin P. Todt  
State Bar No. 1097341

This Document Drafted By:

MacGillis Wiemer, LLC  
11040 W. Bluemound Road, Suite 100  
Milwaukee, WI 53226  
T: (414) 727-5150  
F: (414) 727-5155  
chris@macgilliswiemer.com  
kevin@macgilliswiemer.com



## COUNTY OF KENOSHA

Joseph M. Cardamone III  
Corporation Counsel

Jennifer Kopp  
First Assistant

John Moyer  
Senior Assistant

Matthew Perz  
Senior Assistant

Courthouse  
912 – 56<sup>th</sup> Street, LL13  
Kenosha, WI 53140-3747  
(262) 925-8020  
Fax: (262) 925-8028

June 23, 2021

Sergeant Bill Beth  
3160 136<sup>th</sup> Avenue  
Kenosha, WI 53140

SENT VIA CERTIFIED MAIL

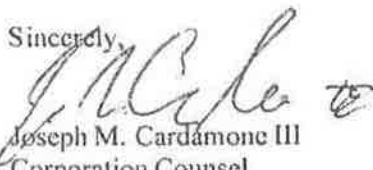
Re: Decision of Grievance Committee

Dear Sergeant Beth:

In my capacity as the Secretary for the Grievance Committee hearing your appeal of the discipline imposed by Chief Deputy Marc Levin, I am enclosing a copy of the Committee's Findings and Order upholding that disciplinary decision.

Pursuant to § 59.26 (8)(b) 6, Wis. Stats., you may appeal from the Committee's order to the Circuit Court by serving written notice of the appeal on the Secretary of the Grievance Committee within ten (10) days after the order is filed, which is the date on the Order. Pursuant to Municipal Code of Kenosha County § 4.01 (6)(c) 10, any such appeal must be filed in writing with the Secretary of the Grievance Committee within ten (10) days after notice of the Committee's Order is served on you. I cannot give you legal advice as to how to harmonize these two provisions. I can advise that I will not object to a filing which comports with the later date contemplated by the ordinance. I cannot speak to whether the Circuit Court would find that jurisdiction was lost by a filing which did not comport with the terms of the statute.

Sincerely,

  
Joseph M. Cardamone III  
Corporation Counsel

JC:ms

Cc Supervisor Terry Rose (via email)  
Attorney Kyle Gulya (via email)  
Attorney Kevin Todt (via email)  
Chief Deputy Marc Levin, Kenosha County Sheriff's Department (via email)  
Ms. Clara-Lin Tappa, Director of Human Resources (via email)



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**Before the Kenosha County Grievance Committee:  
The Finance and Administration Committee**

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**In the Matter of the Charges Filed Against:  
CAPTAIN BILL BETH**

**By**

**KENOSHA COUNTY CHIEF DEPUTY  
MARC LEVIN**

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**FINDINGS AND ORDER**

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This matter came before the Kenosha County Finance and Administration Committee ("Committee"), designated by Municipal Code of Kenosha County (MCKC) § 4.01 (6)(c) 4 as the Grievance Committee as described under that section and under Wisconsin Statute § 59.26 (8)(b). All members of that committee (Chair Terry Rose, Supervisor Jeff Gentz, Supervisor Ronald J. Frederick, Supervisor Edward D. Kubicki, Supervisor Jeff Wamboldt, Supervisor Monica M. Yuhas and Supervisor John Franco) were present throughout the duration of the hearing and deliberations, which commenced on June 2, 2021, and continued on June 3, June 8, June 14, and June 16, to consider the charges filed by Kenosha County Chief Deputy Marc Levin against then Captain (now Sergeant) Bill Beth<sup>1</sup>.

The charges were first filed with the Committee Chair on May 6 and received by the Committee on May 13, pursuant to MCKC § 4.01 (6)(c) 4 and § 59.26 (8)(b) 1, Wis. Stats. They were personally served on Captain Beth on May 14, 2021 and an appeal was requested on that same date. A prehearing conference was held telephonically with the Committee Chair on May

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<sup>1</sup> At the time the events which led to this proceeding occurred, Bill Beth was a Captain with the Kenosha County Sheriff's Department. It is acknowledged and understood that as a result of these events, he was demoted to Sergeant, the rank held during this proceeding. In the interest of consistency and clarity, he will be referred to as Captain Beth throughout this Findings and Order.

17, 2021, at which Captain Beth was represented by Attorney Kevin Todt and Chief Deputy Levin was represented by Attorney Kyle Gulya. At that prehearing conference agreements were reached as to tentative scheduling and various procedural matters. When the hearing commenced, and throughout the taking of testimony, Chief Deputy Levin appeared in person, represented by Attorney Gulya. Captain Beth appeared in person, represented by Attorney Todt.

Chief Deputy Levin, through Attorney Gulya, presented testimony and other evidence during the hearing, which was subjected to cross examination by Captain Beth through Attorney Todt as well as questioning by members of the Committee. Captain Beth, through Attorney Todt, likewise presented testimony and other evidence during the hearing, which was subjected to cross examination by Chief Deputy Levin through Attorney Gulya as well as questioning by members of the Committee. Each parties' exhibits were entered into the record by stipulation. Further, the parties noted that there were no objections to the procedure, notice or scheduling of this matter. Witness testimony was concluded on June 16, 2021, and the Committee subsequently entered into deliberations.

### **SUMMARY OF CHARGES**

In December 2020, Kenosha County commenced a broad investigation involving use of paid leave time by supervisory personnel within the Kenosha County Sheriff's Department related to use of special assignment days (S/A days, S Days, trade days) rather than using traditional vacation or sick leave. While this investigation was ongoing, Captain Beth, despite being aware of the existence of the investigation, met with subordinate supervisory personnel in January 2021 to develop a defined plan whereby salaried-exempt supervisors could trade time



worked on non-scheduled work time as time off for scheduled work time instead of using vacation time or PTO. He produced a memorandum which was shared with those subordinates, solicited their feedback on it and then further refined it and implemented it without receiving authorization from Sheriff David Beth or Chief Deputy Levin. During a meeting on February 9, 2021, Captain Beth presented this already implemented shift trade plan to Sheriff Beth, Chief Deputy Levin, and his fellow Captains, repeatedly and insubordinately pushing Sheriff Beth to consider it. When it was determined that trades had already been approved by Captain Beth under this plan, the County initiated an investigation into his actions. During that investigation, Captain Beth failed to be honest regarding his conduct, including falsely stating whether certain conversations had taken place.

As a result of that investigation, Chief Deputy Levin found that Captain Beth violated Kenosha County Sheriff's Departmental Policies, specifically:

- Policy 101 Standards of Conduct.
  - 101.3.1 Unlawful or Conflicting Orders
  - 101.4(c), (d), (e) Direct Lines of Reporting - Chain of Command
  - 101.5 (a), (c), (e) Supervisory Responsibilities
  - 101.7.1 (a), (b), (c) Laws, Rules and Orders
  - 101.8.2 (a), (b), (c) Efficiency
  - 101.8.3 (a), (c) Performance
  - 101.8.4 (h), (o) Conduct
- Policy 110 Investigations
  - 110.4.2(k) Internal Affairs Investigation Interviews

- **Policy 118 Leave Time and Scheduling**

It was further found that Captain Beth's conduct violated the professional standards identified in MCKC § 4.01 (6)(a), the Civil Service Ordinance:

- 4. Insubordination
- 5. Neglect or Dereliction of Duty
- 6. Willful neglect or disobedience of any legal order of superior officers or legal departmental rule
- 8. Conduct that adversely affects the morale or efficiency of the Sheriff's Department
- 10. Conduct that has a tendency to destroy, or distract from the officer's credibility as a witness in court
- 13. Making a false official statement or entry in official records
- 21. Any other act or omission contrary to good order and discipline, or constituting a violation of any of the rules and regulations of the department

Additionally, Captain Beth is responsible for complying with the Kenosha County Code of Conduct, and his actions violated several of its provisions:

1. Behavior that is unprofessional, disrespectful, unethical or discourteous with co-workers, managers, clients, vendors, or to the citizens of Kenosha County or not reporting same to management;

2. Insubordination, refusing to follow direction from a supervisor or manager, or making false statements;
3. Performance that is not meeting expectations and/or not satisfactorily fulfilling job responsibilities including not completing assignments within expected timeframe;
4. Violating any federal or state laws or codes, local ordinances, and any regulations that govern their respective departments;
14. Sabotaging another's work or intentionally causing delay of work, either employee's own or that of others or causing disruption in the workplace;
17. Making malicious, false and harmful statements about others;
23. Falsifying or intentionally misrepresenting records, statements, claims or reports, including employee's own time records or the time records of another employee.

Finally, the rank of Captain is responsible for exercising "seasoned judgment," assisting in the formulation of Departmental policies and procedures, and ensuring that County and Departmental rules, regulations, and policies are enforced at all times, as noted in the Captain Position description.

As a result of his findings that Captain Beth had violated the above, and based upon his determination that Captain Beth's actions had demonstrated a serious lack of the sound judgment necessary to serve as a significant Department leader, Chief Deputy Levin found that there was just cause to reduce Captain Beth in rank to Sergeant. Further, as a result of his lack of truthfulness during the investigation, a Brady notice, indicating that he could be found to be not credible in court, has been filed with the District Attorney's office.

## **FINDINGS OF FACT**

Kenosha County initiated an expansive investigation in December 2020, reviewing the use of special assignment/SA/S/trade days by salaried exempt supervisors in the Sheriff's Department. Such salaried exempt supervisors are not hourly employees. Because they are salaried, they are not entitled to overtime pay or compensation for work performed outside of or in addition to their scheduled shifts. As part of this investigation, Community Security Solutions LLC (CSS) was retained in order to avoid any potential or perceived conflict of interest that could occur when reviewing the actions of a high-ranking officer of the Sheriff's Department. CSS had not worked with Kenosha County before and had no such conflict. They brought particularized expertise to the investigation in the form of significant prior experience in law enforcement on the part of the two investigators and a focus on interval investigations for command staff. Prior to that investigation beginning, the Captains, including Captain Beth, were all told by the Chief Deputy that special assignment days (S days, SA days, trade days) were no longer authorized.

On January 18, 2021, Captain Beth met with his Lieutenants to discuss use of trade time for salaried exempt supervisors to take scheduled work time off for work performed outside of scheduled work time. Neither Sheriff Beth nor Chief Deputy Levin were at this meeting. Later on January 18, 2021, Captain Beth led a meeting of the Operations Command Staff (Lieutenants and Sergeants) in the Emergency Operations Center ("EOC"). Chief Deputy Levin was present at this meeting for a short time and indicated that the administration was working on possible

solutions for the question of salaried exempt supervisors working significant time outside of their scheduled shifts.

Following the discussion with his subordinates on January 18, Captain Beth prepared and presented to them a memo, dated January 21, regarding "Work Time Adjustments" which would allow Supervisory staff to "exchange time worked outside of their normal shift for time off from their normal shift." This was circulated to his subordinate Lieutenants with a request for their feedback. On that same date, Captain Beth sent his draft to memo to Lieutenant Eric Klinkhammer, inquiring whether the Telestaff system would be able to accommodate the suggested policy. When Lieutenant Klinkhammer replied with his initial thoughts, he copied Captain Justin Miller, his immediate supervisor, as Captain Beth had not included him on the initial email. When Captain Beth responded to Lieutenant Klinkhammer, he once again did not include Captain Miller on that correspondence.

As a result of being made aware of what Captain Beth was preparing, Captain Miller met with Captain Beth the following week. He expressed to Captain Beth that the timing of this matter was not right, based upon the ongoing investigation, and that Captain Beth should seek approval from Chief Deputy Levin before putting "anything in motion." He further advised Captain Beth that Captains still needed to seek permission for certain matters and that he believed Chief Deputy Levin would not be okay with the memo.

On Thursday, January 28, 2021, Captain Beth approved several trades requested by Lieutenant Neal Paulsen. Specifically, Captain Beth allowed Lieutenant Paulsen to exchange time worked outside of his normal shift for time off from his normal shift. This resulted in an increase in Lieutenant supervisor coverage on certain days and a reduction in supervisor coverage on other days.

On February 8, 2021, Captain Beth held another meeting with his Lieutenants. He received additional feedback from his subordinate supervisors and as a result revised the memo to lengthen the time period when “[t]rades should [be] scheduled and concluded” from two weeks to one month.

On February 9, 2021, Sheriff Beth met with Chief Deputy Levin and the three Captains for their regular Command Staff Meeting. During this meeting Captain Beth presented his draft shift trades memo. This meeting was the first instance that either Sheriff Beth or Chief Deputy Levin learned of the existence of the memo. Sheriff Beth attempted to end any discussion of the memo as he had no interest in considering it while the investigation was ongoing. Captain Beth, however, continued to disrespectfully insist and demand that his memo be discussed, to the point of being insubordinate. He was described as being persistent, relentless, obnoxious and aggressive. Sheriff Beth became so upset that he left the meeting in order to calm down. When Sheriff Beth returned to the meeting, Captain Beth continued to insist that his memo needed to be discussed, further aggravating Sheriff Beth to the point where he angrily ended the meeting and sent all participants to their offices.

On or around February 11, 2021, Captain Miller met with Captain Beth and reminded him that he had advised Captain Beth to run the idea past Chief Deputy Levin. Captain Beth later told investigators that he told Captain Miller that Chief Deputy Levin had been present at a meeting where it was discussed. No one was able to corroborate that Chief Deputy Levin had been present for any discussions about shift trades or either the contents or concepts of the memo prior to the Command Staff Meeting on February 9, 2021. Additionally, Captain Beth did not raise at that meeting his claim that Chief Deputy Levin was aware of this issue.

On February 18, 2021, the County commenced an investigation into Captain Beth's approval of potentially unauthorized shift changes and his related conduct when trades he had approved for Lieutenant Paulsen were noted. When interviewed as part of the investigation, Captain Beth claimed either to have not met with Captain Miller prior to the February 9, 2021 Command Staff Meeting or to have no recollection of any such meeting where Captain Miller cautioned him against proceeding with the memo without advising Chief Deputy Levin. He further indicated that he was simply seeking clarification on the existing policy. Captain Beth was not placed on leave until after CSS advised it was their belief that he was not being truthful while being interviewed as part of the investigation.

As part of this investigation it was determined that several Lieutenants had believed that the memo as proposed by Captain Beth was being followed and were disheartened and disappointed upon learning that it would not be implemented.

Captain Beth's disciplinary history was discussed. It was noted that beyond minor infractions the only prior discipline of any significance came in 2016, when as a Lieutenant he received a "counseling" from then Captain Levin after composing a statement and requiring that it be read at Detention Center Roll Calls which could have been interpreted as intimidating and pressuring to Correctional Staff. He was advised by then Captain Levin that he had overreached his authority and failed to have the document properly authorized by his superiors before requiring that it be read in a manner which could have implied it was official Department policy. There was also uncontested testimony that when working in Detentions under Captain Miller he had arranged for a concert without seeking appropriate approval from his superiors resulting in the event being cancelled.

## **SEVEN TESTS OF JUST CAUSE**

Pursuant to § 59.26 (8)(b) (5m) a-g, Wis. Stats., the Committee must find that there is “just cause” to sustain the charges brought by Chief Deputy Levin in order to uphold the imposed discipline. Based upon all the evidence presented, including witness testimony and exhibits received by stipulation, the Committee hereby finds:

**1. Captain Beth could reasonably be expected to be aware of the probable consequences of his conduct.**

A Captain can be reasonably expected to understand the requirements of the chain of command as well as understanding that if there was confusion as to current policy, the appropriate process was to seek clarification from his superiors before taking action. Sergeant Beth provided examples in his testimony of prior initiatives he had spearheaded but always after discussing it with either the Sheriff or Chief Deputy. Additionally, a Captain can certainly be reasonably expected to understand the probable consequences of providing misleading or untruthful answers in responding to official investigations.

**2. The rules and expectations of conduct are reasonable.**

It is eminently reasonable to expect one of the third highest ranking members of the Sheriff's department to demonstrate sound and seasoned judgment. The policies are in place to ensure the safe, effective and efficient running of a law enforcement agency. These include the requirements of the chain of command, which are designed to guarantee a supervisor does not impair the Department's ability to carry out its duties by actions or inactions which are not fully



authorized, and which could impact the trust necessary to appropriately lead. Further, there can be no question that it is reasonable to expect a representative of law enforcement to at all times, but particularly in the framework of an investigation, speak plainly and honestly, without resort to dissembling, evasion, or misdirection.

**3. There was a reasonable effort to discover whether Captain Beth did in fact violate a rule or order.**

There was an extensive investigation into Captain Beth's conduct. It included comprehensive and multiple interviews with Captain Beth, his subordinate Lieutenants, Chief Deputy Levin, Sheriff Beth, Captain Miller, and Lieutenant Klinkhammer as well as review of documents, policies, training, and Captain Beth's work product. Captain Beth had an opportunity to share any statements or evidence prior to the filing of charges.

**4. The investigation was fair and objective.**

Due to the potential conflict inherent in investigating a high-ranking officer of the Sheriff's Department, particularly one related to the Sheriff, Kenosha County retained Community Security Solutions LLC to conduct the investigation. There had been no meaningful contact between the two primary investigators from CSS and any of the persons involved in this investigation prior to late 2020, when their first investigation of Sheriff Department personnel began. Captain Beth received notice of the investigation including its nature, was fully advised of his rights, was afforded the opportunity to have representation present when interviewed, and was given the opportunity to present any information he believed was pertinent to the investigation into his actions.

**5. The investigation discovered substantial evidence of wrongdoing showing Captain Beth violated a rule or order as described in the charges.**

The investigation showed Captain Beth to be insubordinate, by continuing to push an issue which the Sheriff indicated they were not discussing. Not only did he demonstrate insubordination through his actions, but his demeanor during the meeting showed a lack of respect for the chain of command and was described by one participant in that meeting as the most disrespectful exchange between a subordinate and superior that he had observed in twenty-eight years of service with the Sheriff's Department. Further, the investigation found that he had enacted an unauthorized policy regarding the trading of shifts without the approval or knowledge of the Sheriff or Chief Deputy, in violation of the chain of command, which resulted in confusion and resentment among his subordinates as well as one Lieutenant having to change an authorized trade for vacation time. Finally, it found that he had failed to be truthful and forthright when discussing the events which formed the basis of the investigation, including denying or failing to remember certain conversations and indicating the participation of the Chief Deputy in a meeting discussing the contents of the memo.

**6. The Sheriff's Department is enforcing the rules of orders fairly and without discrimination.**

Due to a lack of similar situations, it can be determined that this determination was made fairly and without discrimination.

**7. The recommended action of reduction in rank is consistent with the seriousness of the violation and Captain Beth's record of service.**

It is vital that the leadership of the Sheriff's Department has the utmost trust and confidence in its highest-ranking officers. This includes not only trust and confidence in the ability to exercise the "seasoned judgment" to which has been previously referred, trust and confidence in an understanding of the propriety of the chain of command and the appropriate role of subordinates, but also trust and confidence that responses from those officers will be wholly truthful. This is for the good of both the individual and of the whole. A lack of faith in any one of these would make it difficult to retain someone in such an elevated position. The lack of faith in all three makes it essentially impossible.

In this situation, Captain Beth sought to appease his subordinates, likely with the best of motives and intentions, by making promises related to a benefit he was not authorized to provide. He raised the hopes of the individuals who worked under his command in this regard and then sought the approval of his superiors, forcing the Sheriff and Chief Deputy into a situation where they needed to advise that no such plan was moving forward, creating a substantial risk of damaging Departmental relations.

Chief Deputy Levin testified eloquently that he took into consideration Captain Beth's long and distinguished record of service. He concluded, however, that he simply no longer had the requisite confidence in Captain Beth's judgment and felt it was necessary that there be a buffer between him and significant decision making-authority, which led him to the conclusion that the demotion to the rank of Sergeant was most consistent with the seriousness of the violations including the disregarding of the chain of command, the insubordinate behavior, and the lack of candor during the investigation.

### **FINDINGS, CONCLUSION AND ORDER**

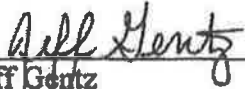
The Committee finds that Captain Beth, through his actions and statements, was insubordinate, violated the chain of command, and failed to provide truthful responses during the investigation into this matter, resulting in violations of Department Policies, the Civil Service Ordinance, and the County Code of Conduct as charged by Chief Deputy Levin.

Further, a majority of the Committee concludes that Chief Deputy Levin has proven, by a preponderance of evidence, that the Seven Tests of Just Cause were met in this instance. Like Chief Deputy Levin, they struggle with the lack of any significant discipline over the course of a quarter century career in the Sheriff's Department but ultimately defer to the determination and judgment of the Chief Deputy that the degree of trust necessary to be comfortable with retaining Captain Beth as one of his three "right hands" has been irretrievably damaged by his actions both before and during the investigation.

Ultimately, this is not a question of whether a policy should be or should have been created for the benefit of the salaried-exempt supervisory staff. It is one of whether the actions taken before and during the investigation show a lack of sound and seasoned judgment, understanding of the chain of command, and candor with superiors and those acting on their behalf. Captains do not, on their own authority, enact policies. Captain Beth clearly knew this based on his own experience of initiating changes after consultation with his superiors. Based upon all the testimony taken and the evidence presented in the form of stipulated exhibits, by a majority vote, **IT IS HEREBY ORDERED:**


That the determination of Chief Deputy Levin to impose discipline upon Captain Bill  
Beth by reduction of rank to that of Sergeant is hereby **affirmed**.

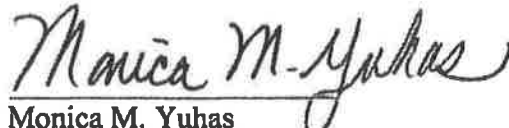
Dated this 22<sup>nd</sup> day of June, 2021.

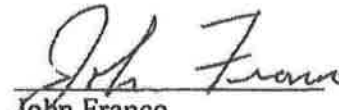
  
Jeff Gertz

  
Ronald J. Frederick

  
Edward D. Kubicki

  
Jeff Wamboldt

  
Monica M. Yuhas

  
John Franco

I respectfully dissent from the decision of the Committee. While cognizant of all the factors which led my colleagues to their determination, it is my conclusion that the imposed penalty is too harsh.

I agree that Captain Beth was insubordinate but due to his stellar record with the Department and the lack of any significant previous discipline or following of what I believe would have been a proper progressive approach to discipline, I simply do not feel that his actions merit a reduction in rank.

It is my belief that at some point the County Board may enact a policy similar to that which Captain Beth was proposing and while he may have been told not to circulate the memo, he was suggesting an idea whose time has likely come.

I would retain Captain Beth at that rank, impose a period of leave without pay, and effectively place him on a "last-chance" understanding that any future violations of rules, policies, or ordinances would result in the Department seeking termination.

Dated this 22<sup>nd</sup> day of June, 2021.



Terry Rose

**STATE OF WISCONSIN****CIRCUIT COURT****KENOSHA**

Bill E. Beth vs. Kenosha County et al

**Electronic Filing  
Notice**

Case No. 2021CV000786

Class Code: Petition for Writ of Certiorari

**FILED**

08-27-2021

Clerk of Circuit Court  
Kenosha County

2021CV000786

Honorable Angelina  
Gabriele

Branch 6

KENOSHA COUNTY  
1010 56TH STREET  
KENOSHA WI 53140

Case number 2021CV000786 was electronically filed with/converted by the Kenosha County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

**Pro Se opt-in code: 14d8c2**

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 262-653-2664.

Kenosha County Circuit Court  
Date: August 30, 2021Gm  
9/16

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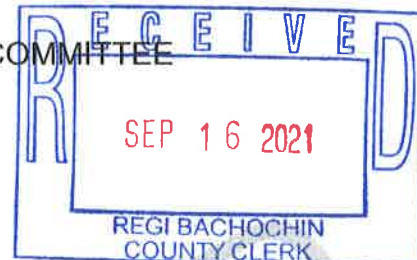
Clerk of Circuit Court  
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2021CV000786

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KENOSHA COUNTY FINANCE/ADMINISTRATION COMMITTEE  
1010 56TH ST. 2ND FLOOR  
COUNTY ADMINISTRATION BUILDING  
KENOSHA WI 53140



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