

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

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DIVISION II
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STATE OF WASHINGTON
BY _____
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In re the
Personal Restraint Petition of

PAUL BICKLE,

Petitioner.

No. 49068-4-II

ORDER DISMISSING PETITION¹

Paul Bickle seeks relief from the prison disciplinary sanctions imposed after he was found guilty of multiple serious infractions. The Department of Corrections (DOC) provided Bickle with the minimum due process required in prison disciplinary hearings and the hearing officer's findings are supported by some evidence in the record. Accordingly, this court dismisses his petition.

On December 15, 2015, the Associate Superintendent of the Washington Correction Center (WCC) received an anonymous letter from a fictitious return address. The letter described the location of some shanks that were hidden inside the WCC maintenance building. When the investigating officers searched the maintenance building, they found four shanks underneath a work bench in the back of the maintenance shop.

Investigator Josh Adams learned that Bickle had been working in the area and compared the letter sent to the Associate Superintendent with some of Bickle's letters.

¹ We deny Bickle's motion for the appointment of counsel at public expense.

Adams concluded that the letters were very similar. Adams placed Bickle in the Intensive Management Unit for investigation. Adams interviewed Bickle once on December 17, 2015 and again on January 21, 2016. On December 17, Bickle denied any knowledge of the letter or the shanks. According to Adams, on January 21, Bickle admitted making the shanks and placing them in the maintenance building to get other workers in trouble. And, Bickle made references to the return address used on the letter to the Associate Superintendent.

On January 22, 2016, Bickle was infraacted for violating WAC 137-25-030(602) (possession, manufacture, or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or any component thereof). A disciplinary hearing was held on January 27, 2016. Bickle pleaded not guilty to the serious infraction. Bickle waived 24 hour notice and did not request any additional witnesses or statements. Bickle stated that Adams was a liar and he never admitted to making the shanks or knowing anything about the letter. During deliberations, the hearing officer contacted Adams who told the hearing officer that Bickle knew the return address on the letter. The hearing officer also reviewed the infraction report, the letter to the Associate Superintendent, and photos of the shanks found in the maintenance shop. The hearing officer found Bickle guilty of violating WAC 137-25-030(602) and sanctioned him to 60 days loss of phone and visiting privileges and 45 days loss of good time credit. Bickle received a copy of the disciplinary hearing minutes and findings.

ANALYSIS

Our review of internal prison disciplinary hearings is “limited to a determination of whether the action taken was so arbitrary and capricious as to deny the petitioner a

fundamentally fair proceeding.” *In re Pers. Restraint of Reismiller*, 101 Wn.2d 291, 294 (1984); *In re Pers. Restraint of Gronquist*, 138 Wn.2d 388, 396 (1999). Proceedings are not arbitrary and capricious so long as they meet minimum due process requirements. *Gronquist*, 138 Wn.2d at 396-97. Minimum due process protections include: (1) advance written notice of the charged violations; (2) the opportunity to present documentary evidence and call witnesses when not unduly hazardous to institutional safety and correctional goals; and (3) after the hearing, receipt of a written statement of the evidence relied on and the reasons for the disciplinary action. *Gronquist*, 138 Wn.2d at 396-97.

The evidentiary requirements of due process are satisfied so long as *any* evidence supports the disciplinary decision. *Superintendent, Mass. Correctional Inst. v. Hill*, 472 U.S. 445, 455 (1985). Thus, “[a] prison disciplinary hearing is arbitrary and capricious only if no evidence supports the action taken.” *In re Pers. Restrain of Burton*, 80 Wn. App. 573, 588 (1996).

Bickle does not allege that DOC failed to provide him with written notice, the opportunity to present evidence, or a written statement of the evidence relied on and reasons for the disciplinary decision. Rather, Bickle alleges that due process requires additional evidence to establish the reliability of Adams’s statement. But Bickle is incorrect. The cases Bickle relies on involve the use of confidential informants or third party hearsay statements. Here, the hearing officer relied on Adams’s statement in the infraction report and in a telephone conversation. Accordingly, no additional due process protections were required. Because Bickle waived 24 hour notice, had the opportunity to request additional statements or witnesses, and received a written statement of the hearing officer’s findings, the minimum due process requirements were met.

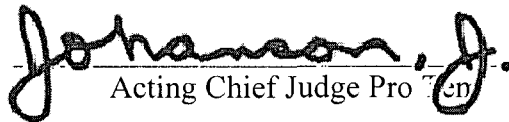
There was also some evidence to support the hearing officer's finding that Bickle was guilty of the infraction. The infraction report included Adams's statement that Bickle admitted to making the shanks and referenced the fictitious return address on the letter. Accordingly, Bickle's sufficiency of evidence challenge also fails.

The DOC provided Bickle with the minimum due process required in prison disciplinary hearings and the hearing officer's findings are supported by some evidence in the record.

Accordingly, it is hereby

ORDERED that this petition is dismissed under RAP 16.11(b).

DATED this 27th day of February 2017.


Acting Chief Judge Pro Tem

cc: Paul Bickle
Robert W. Ferguson, Attorney General
Candie M. Dibble, Assistant Attorney General