

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

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DIVISION II
2016 MAR 30 PM 2:21
STATE OF WASHINGTON
BY ~~DEEDY~~

In re the
Personal Restraint Petition of

CULLEN M. HANKERSON,

Petitioner.

No. 48192-8-II

ORDER DISMISSING PETITION

Cullen M. Hankerson seeks relief from sanctions imposed following the Department of Corrections' determination that he had violated WAC 137-25-030(505) for fighting with another offender. Hankerson's sanctions included six days of segregation and the loss of six days of good time credit. Hankerson asserts that the prison disciplinary procedures leading to his sanctions violated his due process rights.

To obtain relief, Hankerson must show that he is under unlawful restraint. RAP 16.4(a); *In re Pers. Restraint of Grantham*, 168 Wn.2d 204, 212-13 (2010). In the context of prison disciplinary proceedings, this standard requires a reviewing court to determine whether the Department's action 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 doing so, this court looks at whether the petitioner received the due process protections afforded him under *Wolff v. McDonnell*, 418 U.S. 539 (1974). These protections include: (1) written notice of the charged violations; (2) the opportunity to present documentary evidence and call witnesses when not unduly

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hazardous to institutional safety and correctional goals; and (3) a written statement of the evidence relied on and the reasons for the disciplinary action. *Dawson v. Hearing Committee*, 92 Wn.2d 391, 397 (1979) (citing *Wolff*, 418 U.S. at 563-66). In addition, there must be at least some evidence to affirm the discipline. *Grantham*, 168 Wn.2d at 216; *see also In re Pers. Restraint of Gronquist*, 138 Wn.2d 388, 397 n.7 (1999) (factual determinations of prison officials must stand if there is some evidence in the record to support their disciplinary decisions).

On June 8, 2015, Hankerson signed the Department's written notice that it was conducting a disciplinary hearing on June 10, 2015 based on the accusation that Hankerson violated WAC 137-25-030(505) for fighting with another offender. Respondent's Br. Attachment B. The Department's written disciplinary hearing notice informed Hankerson that, among other rights, he had the right to cross examine witnesses and to request the presence of witnesses or written statements therefrom. Respondent's Br. Attachment B. However, Hankerson declined to request witnesses or to present documentary evidence on his behalf, instead choosing only to present his own testimony. Respondent's Br. Attachment C. Following Hankerson's disciplinary hearing, the Department provided him with written hearing minutes and findings stating that the Department found him guilty of the charged violation based on video evidence showing physical signs of injury to him and the other offender, which injuries were consistent with being in a physical altercation in violation with WAC 137-25-030(505).

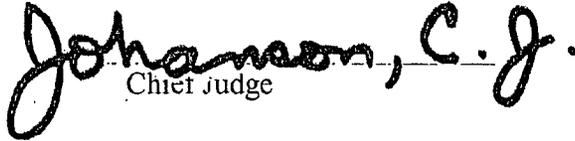
The evidence described above demonstrates that the Department provided Hankerson with all the due process protections afforded to him under *Wolff*. And the video evidence relied upon by the Department in finding Hankerson guilty of violating

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WAC 137-25-030(505) constituted 'some evidence' in support of the Department's disciplinary decision. Accordingly, it is hereby

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

DATED this 30th day of March, 2016.


Chief Judge

cc: Cullen M. Hankerson
Pierce County Clerk
County Cause No(s). 10-1-03683-2
Timothy N. Lang, Department Of Corrections
Robert W. Ferguson, Attorney General
Candie M. Dibble, Assistant Attorney General - Corrections Division