

# IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

## DIVISION II

In re the Personal Restraint Petition of  
BYRON FAMOUS JACKSON,  
Petitioner.

No. 50783-8-II

ORDER DISMISSING PETITION

FILED  
COURT OF APPEALS  
DIVISION II  
2016 FEB 21 AM 10:56  
STATE OF WASHINGTON  
BY DEPUTY

Byron Famous Jackson seeks relief from the sanctions imposed<sup>1</sup> following the Department of Corrections' determination that he had violated WAC 137-25-030(752) (possession of an unauthorized drug). We review prison disciplinary proceedings 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, 678 P.2d 323 (1984). In doing so, we look to whether petitioner received the due process protections afforded him under *Wolff v. McDonnell*, 418 U.S. 539, 563-65, 41 L. Ed. 2d 935, 94 S. Ct. 2963 (1974). These 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) a written statement of the evidence relied on and the reasons for the disciplinary action. Jackson received all of these protections.

Jackson argues that the evidence of the infraction is insufficient because the deodorant, in which the methamphetamine was found, was not confiscated and placed in

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<sup>1</sup> Ten days' loss of good conduct time, 20 days' loss of gym and 7 days' loss of segregation.

evidence. When there is "some evidence" in the record, we will affirm the Department's disciplinary decision. *Superintendent v. Hill*, 472 U.S. 445, 86 L. Ed. 2d 356, 105 S. Ct. 2768 (1985); *In re Pers. Restraint of Johnston*, 109 Wn.2d 493, 497, 745 P.2d 864 (1987). The record contains "some evidence" in the form of incident reports and video surveillance showing that a substance taken from Jackson's locker tested positive for methamphetamines. We, therefore, affirm the Department's disciplinary decision.

Accordingly, it is hereby

ORDERED that Jackson's petition is dismissed under RAP 16.11(b). His request for appointment of counsel is denied.

  
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Acting Chief Judge Pro Tempore

cc: Byron F. Jackson  
Candie M. Dibble