

# IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

## DIVISION II

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COURT OF APPEALS  
DIVISION II  
2015 SEP 29 AM 10:04  
STATE OF WASHINGTON  
BY DEPUTY

In re the Personal Restraint Petition of  
  
JOSEPH WAYLON WEBB,  
  
Petitioner.

No. 47139-6-II

ORDER DISMISSING PETITION

Joseph Webb seeks relief from the loss of 270 days of good conduct time imposed following the Department of Corrections' determination that he had violated WAC 137-25-030(502) by committing an aggravated assault on another inmate. Corrections Officers found inmate Wesley Ybarra in the yard of the Clallam Bay Corrections Center, bloody and disoriented. He was found to have a fractured jaw. Webb was found to have an injury to his right hand. A confidential informant provided information that Webb had assaulted Ybarra. The Department charged Webb with a 502 infraction. He requested a hearing and asked that a video recording of the yard's activity be reviewed. The Department determined that no video was available. Webb provided twelve inmate statements stating that Webb was playing softball with them in another part of the yard and so could not have assaulted Ybarra. Based on the infraction report, including the confidential informant's information, the hearing officer found Webb guilty of the 502 infraction. He appealed to the superintendent's designee, who affirmed the finding and the sanctions recommended by the hearing officer.

*Paul J. Sandoz*

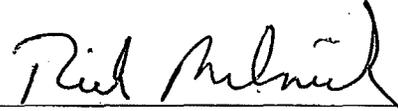
We review prison disciplinary proceedings to determine whether the Department's action was so arbitrary and capricious as to deny the petitioner a fundamentally fair proceeding. *In re Reismiller*, 101 Wn.2d 291, 294, 678 P.2d 323 (1984). In doing so, we look to whether petitioner received the due process 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. Webb received all of these protections. The lack of a video recording does not violate Webb's right to minimal due process. Nor does the Department's use of information from the confidential informant, even though the hearing officer could not determine the reliability of the confidential informant because he had not previously provided information.

Webb argues that the Department erred in finding him guilty of the infraction because he submitted twelve statements as to his whereabouts and because there was no evidence corroborating the infraction report. But 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 Johnston*, 109 Wn.2d 493, 497, 745 P.2d 864 (1987). The infraction report constitutes "some evidence." There is no corroboration requirement. This court does not reweigh the evidence. We therefore affirm the Department's disciplinary decision.

Accordingly, it is hereby

ORDERED that Webb's petition is dismissed under RAP 16.11(b).

DATED this 29<sup>th</sup> day of September 2015.



Acting Chief Judge Pro Tempore

cc: Joseph W. Webb  
Cassie B. vanRoojen  
Department of Corrections