

Commonwealth Of Kentucky

Court of Appeals

NO. 2004-CA-001254-MR

KENNETH HUNT

APPELLANT

v. APPEAL FROM OLDHAM CIRCUIT COURT
HONORABLE PAUL W. ROSENBLUM, JUDGE
ACTION NO. 04-CI-00258

LARRY CHANDLER, BILL SEARCY,
CATHY BUCK, AND LARRY AKERS

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: DYCHE, KNOFF, AND TACKETT; JUDGES.

TACKETT, JUDGE: This is an appeal from the dismissal of an action for declaratory judgment brought by Kenneth Hunt, an inmate at the Kentucky State Reformatory in LaGrange, Oldham County, Kentucky, against Larry Chandler, Warden of KSR, and others. Hunt was disciplined for the institutional offense of bribery and penalized with the loss of 90 days good time and 60 days of disciplinary segregation. Hunt's appeal to the warden

was unsuccessful, and Hunt challenged the adjustment committee's findings in this action before the Oldham Circuit Court, alleging that the committee did not consider all available evidence and relied on untrustworthy evidence in the form of confidential information. Hunt also argued that the warden did not individually address the issues raised in his appeal. The action was dismissed by the circuit court on motion of the Appellees. Hunt now appeals that dismissal, arguing that the court should have held an evidentiary hearing and that the court's action violates his due process rights. We affirm.

The scope of review of a correctional institution's disciplinary proceeding is very limited. An evidentiary hearing is not required, because the circuit court makes no findings of fact. Its review is limited to the existing record, to which nothing may be added, and to the question of whether there is substantial evidence in the record to support the administrative body's decision. The circuit court is not permitted to weigh the credibility of evidence, or substitute its view of the evidence for that of the finder of fact. State prison officials have very broad discretion to discipline their inmates. Sandin v. Conner, 515 U.S. 472, 115 S.Ct. 2293, 132 L.Ed.2d 418 (1995), Gilhaus v. Wilson, 734 S.W.2d 808 (Ky. App. 1987). The administrative body is given great deference by a reviewing court, and its decision will be upheld on appeal if there is

some evidence to support its decision. Superintendent v. Hill, 472 U.S. 445, 454, 105 S.Ct. 2768, 86 L.Ed.2d 356 (1985). In this case, the action taken by the board was supported by substantial evidence. The inmate was convicted of the institutional offense of bribery after an employee, Charles Boatwright, no longer employed by the prison, admitted to taking more than \$200 from the inmate. Hunt argues that "Officer Boatright [sic] was and is no better than [sic] the people he was in charge of watching," but we are not permitted to reconsider the credibility of witnesses. If the finder of fact found the testimony of a witness persuasive, that is the finder of fact's prerogative to do so and we may not disturb its finding on appeal. If the testimony of the witness, if believed, supports the finding of the tribunal, then it is sufficient to withstand a challenge on appeal.

Hunt alleges that he was denied due process, specifically claiming that the "informant system" denied him due process. But in a prison disciplinary hearing, minimal due process is all that is required. Superintendent v. Hill states that minimal due process consists of (1) advance written notice of the charges, (2) an opportunity, when consistent with institutional safety and goals, to call witnesses and present documentary evidence in the inmate's defense, and (3) a written statement by the fact finder of the evidence relied upon and the

reasons for the disciplinary action. 472 U.S. at 454. As the Appellees note, the fact finder did not rely on confidential evidence to find that Hunt had committed an offense. Instead, confidential information led to the discovery that an employee was accepting money from inmates, and the employee's admission led to the action against Hunt. In other words, the confidential information was used in the investigation stage, not the prosecution stage. There is nothing in the record that shows that the institution did not comply with established law or policy.

For the foregoing reasons, the decision of the Oldham Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Kenneth Hunt, *Pro Se*
LaGrange, Kentucky

BRIEF FOR APPELLEES:

Rebecca Baylous
Frankfort, Kentucky