

RENDERED: AUGUST 19, 2005; 10:00 a.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2004-CA-002319-MR

DERRICK DAUGHERTY

APPELLANT

v. APPEAL FROM BOYLE CIRCUIT COURT
HONORABLE DARREN W. PECKLER, JUDGE
CIVIL ACTION NO. 04-CI-00225

JAMES L. MORGAN, WARDEN

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: TACKETT AND TAYLOR, JUDGES; HUDDLESTON, SENIOR JUDGE.¹

HUDDLESTON, SENIOR JUDGE: On September 23, 2003, Derrick Daugherty, an inmate at the Northpoint Training Center in Boyle County, submitted to a drug test which revealed the presence of cocaine metabolites in his system. Daugherty was charged with unauthorized drug use, and, after a prison disciplinary hearing,

¹ Senior Judge Joseph R. Huddleston sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

an adjustment committee found him guilty of the charge and revoked sixty days of his good behavior credit. During a subsequent investigation, Daugherty confessed to the investigating officer that he had found the cocaine at the prison's entrance, and he admitted that he used it. Daugherty was then charged with possession of dangerous contraband. And after another disciplinary hearing, the adjustment committee found him guilty of this second charge and revoked an additional ninety days of his good behavior credit.

Daugherty appealed to Northpoint's warden, James Morgan, who concurred with the adjustment committee's findings of guilt. Daugherty then filed a petition for declaration of rights with Boyle Circuit Court seeking relief from the adjustment committee's sanctions. The circuit court denied Daugherty's petition. Insisting that the evidence did not support the committee's findings, Daugherty appeals to this Court.

On appeal, Daugherty argues that the adjustment committee's written findings were inadequate since they failed to properly summarize the evidence upon which the committee relied as required by Corrections Policy 15.6. Therefore, Daugherty contends his due process rights were violated.

If a prison disciplinary proceeding may result in the revocation of an inmate's good behavior credit, then the Due

Process Clause of the United States Constitution requires that the inmate be given prior notice of the charges, a reasonable opportunity to be heard and a brief written finding which is suitable for judicial review.²

In each of the committee's written findings, it briefly summarized the evidence upon which it relied. Despite their brevity, the committee's findings were detailed enough to allow the warden, Boyle Circuit Court and this Court to meaningfully review the committee's actions. Thus, the committee's findings adequately comported with due process.

According to Daugherty, no one saw him with the cocaine in his possession. Thus, he reasons, the committee could not have possibly found him guilty of possessing dangerous contraband. And he insists that his confession that he found and used cocaine was insufficient to support a finding of guilt.

When we review a circuit court's denial of a petition for declaration of rights regarding the revocation of an inmate's good behavior credit, we will affirm if "some evidence" supports the sanction.³

Daugherty's confession that he found and used cocaine constituted "some evidence" that supported the committee's finding that he was guilty of possessing dangerous contraband.

² Smith v. O'Dea, 939 S.W.2d 353, 357 (Ky. App. 1997). See also Wolff v. McDonnell, 418 U.S. 539, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974).

³ Smith v. O'Dea, supra, note 2.

And the results of the drug test, together with Daugherty's confession, constituted "some evidence" that supported the committee's finding that he was guilty of using an unauthorized drug. Since the committee's findings of guilt are supported by "some evidence," the circuit court properly denied Daugherty's petition.

The order denying Daugherty's petition for a declaration of rights is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

NO BRIEF FOR APPELLEE

Derrick Daugherty, *pro se*
Burgin, Kentucky