

Commonwealth Of Kentucky

Court of Appeals

NO. 2005-CA-000588-MR

RODNEY GRIMES

APPELLANT

v. APPEAL FROM LYON CIRCUIT COURT
HONORABLE BILL CUNNINGHAM, JUDGE
ACTION NO. 04-CI-00165

GLEN HAEBERLIN

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: GUIDUGLI AND JOHNSON, JUDGES; HUDDLESTON, SENIOR JUDGE.¹

HUDDLESTON, SENIOR JUDGE: Rodney Grimes appeals from a Lyon Circuit Court order that dismissed his petition for a declaration of rights arising from an institutional disciplinary proceeding. Grimes asserts several claims in this appeal, all of which are without merit.

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.

Grimes, an inmate at the Kentucky State Penitentiary in Eddyville, was subject to a disciplinary hearing after failing a cell inspection that revealed that Grimes possessed excess personal property. The adjustment committee found Grimes guilty based on the statements of the reporting officer. As punishment, Grimes forfeited thirty days of good-time credit. On review, the warden upheld the committee's decision, noting the amount of property removed from Grimes' cell constituted health and fire hazards.

Grimes filed a petition in Lyon Circuit Court alleging various constitutional violations in the conduct of the disciplinary hearing. Appellee filed a response, supported by affidavits, after which the circuit court dismissed the petition.

Grimes argues on appeal that the circuit court deprived him of procedural due process rights and abused its discretion when it failed to hold an evidentiary hearing and dismissed his petition.

A disciplinary proceeding that may revoke a prisoner's good-time credit must comport with due process.² A prisoner is entitled to written notice of the charges, the opportunity to

² *Wolf v. McDonnell*, 418 U.S. 539, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974).

present evidence in his defense, and a report by the committee of its reasoning and conclusions.³

In this case, Grimes was given notice of the charge against him. The committee held a hearing, and a prison legal aide assisted Grimes in his defense. Grimes also received a copy of the written findings of the committee, as well as a copy of the warden's decision that upheld the committee's findings.

On review, a disciplinary decision is upheld if "some evidence in the record" supports the committee's decision.⁴ A review of the record reveals that the committee's decision was supported by evidence that Grimes was found in possession of excess personal property.

Accordingly, Grimes received all procedural due process rights to which he was entitled, and he has failed to point to any evidence entitling him to an evidentiary hearing in the circuit court. Furthermore, Grimes' assertion that the court dismissed his petition due to bias is wholly speculative and without merit.

Because the circuit court did not err, its order dismissing Grimes' petition for a declaration of rights is affirmed.

³ *Id.* at 564, 94 S. Ct. at 2979.

⁴ *Superintendent, Mass. Corr. Inst., Walpole v. Hill*, 472 U.S. 445, 454, 105 S. Ct. 2768, 2773, 86 L. Ed. 2d 356 (1985); *Smith v. O'Dea*, 939 S.W.2d 353 (Ky. App. 1997).

ALL CONCUR.

BRIEF FOR APPELLANT

NO BRIEF FOR APPELLEE

Rodney Grimes, *pro se*
Eddyville, Kentucky