

IN THE COURT OF APPEALS OF IOWA

No. 1-96 / 90-477

JOHNNY L. PIPPINS,

Appellant,

vs.

STATE OF IOWA,

Appellee.

FILED

APR 23 1991

CLERK SUPREME COURT

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Appeal from the Iowa District Court for Lee County,
David B. Hendrickson, Judge.

Pippins appeals a district court denial of
postconviction relief. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Patricia
R. Lapointe, Assistant State Appellate Defender, for
appellant.

Bonnie J. Campbell, Attorney General, Gordon E. Allen,
Deputy Attorney General, and William A. Hill, Assistant
Attorney General, for appellee.

Considered by Oxberger, C.J., and Hayden and Habhab,
JJ.

OXBERGER, C.J.

Prison inmate Johnny Pippins was accused of participating in a scheme to introduce drugs into the prison. Another inmate, Cassidy, had written to his mother asking her to transfer money to Pippins' cousin; allegedly the purpose of this transaction was to pay for drugs.

A prison disciplinary committee found Pippins had violated prison rule 41. Pippins then sought postconviction relief to challenge the prison disciplinary action. The district court denied postconviction relief and Pippins appealed.

Pippins contends prison rule 41 is unconstitutionally vague. He characterizes the rule as "unintelligible." Pippins also challenges the sufficiency of the evidence to support the disciplinary action as well as questioning the reliability of the confidential information depended upon by the committee. Finally, Pippins contends the penalty imposed on him of one year of administrative segregation was not authorized by the applicable institutional rules.

Ordinarily, our review of postconviction relief proceedings is for errors of law. Hinkle v. State, 290 N.W.2d 28, 30 (Iowa 1980). However, when a postconviction petitioner asserts a violation of constitutional safeguards, we make our own evaluation based on the totality of the circumstances. This is the equivalent of de novo review. Id.

Before asserting a ground for relief in a postconviction application, a prisoner must have asserted the ground in the administrative process. Bonds v. State, 447 N.W.2d 135, 136 (Iowa 1989)(citation omitted). However, the district court may, for sufficient reason, consider the ground even if not preserved. Id. The petitioner bears the burden of introducing a sufficient reason for not raising the ground during the administrative process. Id.

Pippins' attorney first raised the issue of whether rule 41 was unconstitutionally vague at the postconviction hearing. No reasons were given for not raising the issue during the administrative process. Consequently, the district court refused to consider the issue. We also decline to address it.

We review prison disciplinary committee decisions for whether "some evidence" in the record supports the decision. Harper v. State, 397 N.W.2d 740, 743 (Iowa 1986). When an inmate is disciplined on the basis of confidential information, there must be some indication of the confidential informant's reliability. Howard v. State, 439 N.W.2d 193, 194 (Iowa 1989).

Upon our in camera review we find some evidence in the record to support the decision Pippins violated prison rule 41. Further, we find the reliability of the confidential information depended upon was adequately evaluated.

Lastly, we find the penalty of administrative segregation was authorized by the rules governing the institution where the rule violation occurred. Although the penalty of "administrative segregation" was not listed as a potential penalty in the applicable rules, the various aspects of "administrative segregation" were authorized by the rules. Further, we find no support for Pippins' contention the disciplinary committee was required to follow specific guidelines to ensure consistency of imposed penalties.

Consequently, we affirm the district court's denial of Pippins' application for postconviction relief in all respects.

AFFIRMED.