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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-333 / 91-1134

MICHAEL PENDLETON,

Appellant,

vs.

STATE OF IOWA,

Appellee.

Appeal from the Iowa District Court for Jones County, Thomas M. Horan, Judge.

Applicant appeals the district court's denial of his application for postconviction relief. **AFFIRMED.**

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

Bonnie J. Campbell, Attorney General, and William A. Hill, Assistant Attorney General, for appellee.

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

HAYDEN, J.

On May 11, 1990, Michael Pendleton, an inmate at the Iowa Men's Reformatory in Anamosa, received a disciplinary report. The report charged Pendleton with numerous violations of institutional rules. On May 14, 1990, following a hearing, Pendleton was found guilty of violating rule 20 concerning possession of drugs and/or intoxicants. The disciplinary committee found Pendleton, while working in the prison laundry, was consuming and distributing rook, or prison-made alcohol. The committee relied on confidential information received from fellow inmates. The confidential information was deleted from the report to preserve the peace and tranquillity of the prison.

After exhausting his administrative remedies, Pendleton filed the present action in district court. The district court ruled there was sufficient evidence in the record to support the disciplinary committee decision Pendleton violated rule 20. The district court also ruled Pendleton had failed to raise the issue of inadequate notice, which was based on the deletion of the confidential information, and determined there was no good cause to explain why the notice issue had not previously been raised. The district court denied Pendleton's application for postconviction relief. Pendleton appeals.

I. Ordinarily, a postconviction relief proceeding is at law, and we review for corrections of error. Harper v.

State, 397 N.W.2d 740, 742 (Iowa 1986). However, when a violation of constitutional safeguards is asserted, we make our own evaluation of the totality of the circumstances in a de novo review. Hinkle v. State, 290 N.W.2d 28, 30 (Iowa 1980) (citations omitted).

II. Pendleton maintains there is insufficient evidence in the record to support the committee's determination he possessed drugs and/or intoxicants. The issue on appeal is whether there is "some evidence" in the record to support the conclusion reached by the disciplinary committee. Harper v. State, 397 N.W.2d 740, 743 (Iowa 1986); Hoeppner v. State, 379 N.W.2d 23, 25 (Iowa App. 1985) (citing Superintendent, Mass. Corrections Inst. v. Hill, 472 U.S. 445, 455, 105 S. Ct. 2768, 2774, 86 L. Ed. 2d 356, 365 (1985) ("some evidence from which the conclusion of the administrative tribunal could be deduced"); Wilson v. Farrier, 372 N.W.2d 499, 502 (Iowa 1985) (committee's decision need only by supported by "some evidence")). When a prisoner is disciplined on the basis of confidential information, there must be some indication of the confidential informants' reliability. Howard v. State, 439 N.W.2d 193, 195 (Iowa 1989).

In the present case, the disciplinary committee considered confidential information. We determine the reliability of the confidential informants was adequately evaluated. After a thorough in camera examination of the record, we conclude some evidence supports the disciplinary

committee's decision Pendleton was involved in the possession of drugs and/or intoxicants and supports the reliability of the informants. We affirm on this issue.

III. Pendleton next contends the disciplinary notice was inadequate because it deleted the names of the informants. The postconviction petitioner argues there was no reason to withhold the names of his alleged accomplices. Pendleton believes it was impossible for him to put together an adequate defense because the deleted information was pertinent to his case.

A prisoner who challenges a decision of a prison disciplinary committee is entitled to postconviction relief. Bonds v. State, 447 N.W.2d 135, 136 (Iowa 1989). However, the postconviction petitioner must first satisfy the following requirements. The petitioner must exhaust administrative remedies. Id. The district court found Pendleton had sufficiently exhausted his administrative remedies by requesting review by the warden and the Iowa Department of Corrections in Des Moines. We determine Pendleton has satisfied this requirement.

Secondly, the prisoner must preserve an issue for postconviction relief. Iowa Code section 663A.8 provides:

> Any ground . . . not raised, or knowingly, voluntarily, and intelligently waived . . . in any other proceeding the applicant has taken to secure relief, may not be the basis of a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted . . . .

Iowa Code § 663A.8 (1991). This section requires Pendleton to have asserted the issue of inadequate notice in the

administrative process. Bonds, 447 N.W.2d at 136. The State contends Pendleton failed to raise the notice issue during the administrative proceedings. We agree Pendleton failed to preserve the notice issue for appeal.

The last part of section 663A.8 provides an exception. The district court may, for sufficient reason, consider an issue the prisoner failed to preserve, if the petitioner presents evidence to show sufficient reason why the issue could not be previously raised. Bonds, 447 N.W.2d at 136. We are of the opinion, however, Pendleton failed to present sufficient good cause to explain why the issue could not previously be presented. We hold the district court properly refused to consider the notice issue.

Even if the notice issue had properly been preserved for appeal, we conclude the notice was adequate. A postconviction petitioner must be given written notice of the charges to inform him of the charges and to enable him to organize the facts and prepare a defense. Wolff v. McDonnell, 418 U.S. 539, 564, 94 S. Ct. 2963, 2979, 41 L. Ed. 2d 935, 956 (1974). Officials, however, may delete specific facts concerning the incident if inclusion would cause a security problem for the institution. Rinehart v. Brewer, 483 F. Supp. 165, 169 (S.D. Iowa 1980); Morris v. Auger, 414 N.W.2d 858, 860 (Iowa App. 1987). The notice given to Pendleton states the names of persons supplying confidential information regarding the matter had been deleted in an attempt to maintain the peace and

tranquillity of the prison. We conclude if Pendleton were to be provided with any more specific factual information, it would seriously risk exposing the identity of the confidential informants. Such exposure would jeopardize the security of the prison, and therefore the deletions were justified. Thus, Pendleton was not prejudiced from lack of knowledge of names, and notice was adequate.

We affirm the district court's denial of Pendleton's application for postconviction relief in all respects.

AFFIRMED.