

IN THE COURT OF APPEALS OF IOWA

FILED

FEB 26 1986

CLERK SUPREME COURT

CHARLES WATKINS,

)

Petitioner-Appellee,

)

Filed February 26, 1986

vs.

)

STATE OF IOWA,

)

5-704
85-526

379

Respondent-Appellant.

)

Appeal from the Iowa District Court for Lee County (CL1041 (N) 0884)- R.
David Fahey, Judge.

The State appeals the district court granting postconviction relief to
petitioner-appellee. **VACATED AND REMANDED.**

Thomas J. Miller, Attorney General of Iowa, and Sarah Coats, Assistant
Attorney General, for respondent-appellant.

Michael J. Schilling, Burlington, Iowa, for petitioner-appellee.

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

PER CURIAM

Charles Watkins, an inmate of the Iowa State Penitentiary, was subjected to prison discipline for allegedly assaulting another inmate. The evidence against Watkins consisted of a statement by the alleged victim. The alleged assault was not witnessed by any staff members, and there was no medical evidence to confirm that an assault had occurred. Watkins denied any knowledge of the assault.

Watkins challenged the imposition of prison discipline by filing an application for postconviction relief. The district court granted Watkins postconviction relief, and concluded that the prison disciplinary committee's action was not supported by "substantial evidence."

The State claims on appeal that the district court applied an incorrect standard of review in requiring that the prison disciplinary committee's action be supported by "substantial evidence" rather than by "some evidence." Watkins concedes this. We agree. See Walpole v. Hill, ___ U.S. ___, 105 S. Ct. 2768, 2774-75, 83 L. Ed. 2d 356, 265 (1985); Wilson v. Farrier, 372 N.W.2d 499, 502 (Iowa 1985).

We vacate the ruling of the district court and remand back to the district court for the limited purpose to review the prison disciplinary committee's action in this postconviction relief proceeding and apply the "some evidence" or "any evidence" standard of review in determining the sufficiency of evidence matter.

After the district court has made its ruling anew either party may, by timely motion, apply to this court for further review and decision in this appeal. We retain jurisdiction.

VACATED AND REMANDED.