

IN THE COURT OF APPEALS OF IOWA

No. 1-405 / 90-814

MICHAEL R. McVAY,

Appellant,

vs.

STATE OF IOWA,

Appellee.

FILED

DEC 31 1991

CLERK SUPREME COURT

457

Appeal from the Iowa District Court for Lee County, R.
David Fahey, Judge.

McVay appeals district court denial of postconviction
relief. **AFFIRMED.**

John M. Wright of Napier, Wright & Wolf, Fort Madison,
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 Donielson and Hayden,
JJ.

OXBERGER, C.J.

Prison inmate Michael McVay was accused of assaulting another inmate. Prison authorities disciplined McVay for the assault.

After exhausting his administrative remedies, McVay sought postconviction relief to challenge the prison disciplinary action. The district court denied postconviction relief, and McVay has appealed.

McVay challenges the sufficiency of the evidence to support the disciplinary action.

McVay also contends he was prejudiced by the untimeliness of the prison disciplinary hearing and the untimeliness of two notices for continuance of that hearing.

DELAY IN NOTICE: We first consider whether the delay in notice of the continuances to McVay resulted in any prejudice to him. There is no dispute that there were delays in the notice to McVay of continuances. Reasons for the delay were that the investigation was complex. On another occasion, the delay was due to the committee chairman being involved in district court hearings on a post-conviction relief action. A third occasion for delay involved the inability to form a proper committee for the hearing. With regard to two of the continuances, they were given to McVay one day late. The district court held that the reasons for the delays were legitimate and no prejudice resulted from them. We agree.

Ongoing investigations have been recognized as a sufficient cause for a continuance. See Allen v. State, 418 N.W.2d 67, 71 (Iowa 1988). In addition, a delay resulting from a desire to compose a fair and impartial disciplinary committee is not only mandatory, but reasonable. McVay admits the delays were short. He argues however, that his detention in segregation prevented him from working on his defense by speaking to other inmates about the facts surrounding his case. McVay however was detained in segregation during this time to prevent danger to others and preserve the security and tranquility of the institution. Under these circumstances McVay cannot argue prejudice because of the delays in notice. We affirm the trial court on this matter.

EVIDENCE TO DISMISS: We next consider whether there was sufficient evidence for the district court to dismiss. The standard of review in prison disciplinary proceedings regarding factual issues is whether there is "some evidence" in the record to support the committee's decision. Wilson v. Farrier, 372 N.W.2d 499, 501 (Iowa 1985). Neither inmates nor their attorneys, have a right to confidential informants or their statements in prison disciplinary matters. Howard v. State 439 N.W.2d 193, 194 (Iowa 1989). We find the confidential information in conjunction with the corroboration of a correction officer's report of the incident, provided sufficient evidence. We affirm the district court.

AFFIRMED.