

IN THE COURT OF APPEALS OF IOWA

No. 7-107 / 96-1147

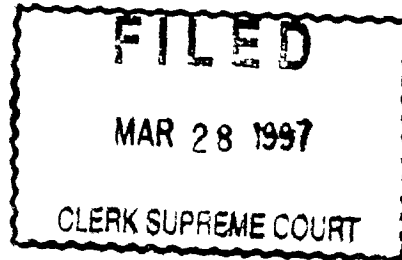
MICHAEL MARIT,

Applicant-Appellant,

vs.

STATE OF IOWA,

Respondent-Appellee.



Appeal from the Iowa District Court for North Lee County, John G. Linn,
Judge.

Applicant appeals the denial of a postconviction relief application in a prison
disciplinary action. **AFFIRMED.**

Jeffrey M. Lipman of Lipman Law Firm, P.C., Clive, for appellant.

Thomas J. Miller, Attorney General, and Forrest Guddall, Assistant Attorney
General, for appellee.

Considered by Sackett, P.J., and Huitink and Vogel, JJ.

PER CURIAM

Michael Marit appeals the decision of the district court denying his application for postconviction relief from prison disciplinary action. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

On July 15, 1995, a correctional officer found a sewing machine needle in Marit's cell at the Iowa State Penitentiary. The needle was found hanging by a bread tie which was hooked into a hole in a vent. The needle was thus retrievable by an inmate. Marit was charged with violating prison disciplinary rule 16, unauthorized possession.

At the prison disciplinary hearing, Marit testified he had no knowledge of the needle. He stated he had only been in that cell for three months and claimed the needle must have been placed there by some prior prisoner. The prison disciplinary committee determined Marit had violated rule 16. The committee noted the needle appeared to be new. Marit received disciplinary sanctions. He exhausted his administrative remedies.

Marit filed an application for postconviction relief. The district court found there was some evidence to support the decision of the disciplinary committee and denied Marit's request for relief. He now appeals.

Marit claims there was insufficient evidence to support the committee's finding he had unauthorized possession of the sewing machine needle. He states there was no evidence to show he knew the needle was in his cell. Under the some evidence

standard, the relevant legal question is whether there is any evidence in the record that could support the disciplinary committee's decision. *James v. State*, 541 N.W.2d 864, 874 (Iowa 1995). We find there was some evidence to support the committee's decision. The evidence showed the needle was accessible to a prisoner in that cell and that the needle looked new.

Marit claims he asked the investigator to show him the exact location where the needle was found, and the investigator's refusal to do so deprived him of his due process right to present a defense. The committee's decision does not address this issue. Furthermore, the administrative law judge testified he had no recollection of Marit raising this claim. We question whether Marit has adequately preserved error on this issue. However, even if this issue were adequately raised, we find Marit was given sufficient detailed information regarding the location of the needle.

We affirm the decision of the district court denying Marit's request for postconviction relief from prison disciplinary action. Costs of this appeal are assessed to Marit.

AFFIRMED.