IN THE COURT OF APPEALS OF IOWA

No. 0-380 / 89-1399

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CLERK SUPREME COURT

CURTIS McGHEE,

Appellant,

vs.

STATE OF IOWA,

Appellee.

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Appeal from the Iowa District Court for Lee County, William S. Cahill, Judge.

Prison inmate McGhee sought postconviction relief challenging a prison disciplinary action. The district court denied postconviction relief. McGhee challenges the sufficiency of the evidence to support the disciplinary action. **AFFIRMED.**

Raymond E. Rogers, State Appellate Defender, and Brian K. Sissel, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General; Gordon E. Allen, Deputy Attorney General; and Kristin W. Ensign, Assistant Attorney General, for appellee.

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

DONIELSON, J.

Prison inmate Curtis McGhee was accused of plotting, with other inmates, to murder prison staff members or take them hostage, and to use the resulting disturbance as a cover for an escape attempt. The accusation was based in large part upon information from confidential informants which was never disclosed to McGhee.

The prison disciplinary committee found McGhee had violated a number of prison rules, including the rules barring assault, rioting, threats and intimidation, obstructive or disruptive conduct, disobedience to a lawful order or directive, and "attempt or complicity" to do any of the above. The disciplinary committee imposed sanctions on McGhee for these rule violations.

McGhee challenged the disciplinary action by filing this petition for postconviction relief. The district court denied postconviction relief, and McGhee has appealed.

McGhee challenges the sufficiency of the evidence to establish that he had violated any of the disciplinary rules in question. McGhee asks this court to scrutinize the confidential information in camera to determine whether it supports the committee's decision.

The test to be applied in determining the sufficiency of evidence to support prison disciplinary decisions was enunciated in Wilson v. Farrier, 372 N.W.2d 499, 501 (Iowa 1984):

> [T]he requirements of due process are satisfied if some evidence supports the decision by the prison disciplinary board . . . . This standard is met if 'there was some evidence from which the conclusion of the administrative tribunal could be deduced. . . .' Ascertaining whether this standard is satisfied does not require examination of the entire record, independent assessment of the credibility of witnesses, or weighing of the evidence. Instead, the relevant question is whether there is any evidence in the record that could support the conclusion reached by the disciplinary board.

(Adopting the test enunciated in Walpole v. Hill, 472 U.S. 445, 456, 105 S. Ct. 2768, 2774, 86 L. Ed. 2d 356, 365 (1985)).

Preliminarily, McGhee asks us to determine whether there is sufficient information in the record to convince this court that the disciplinary committee correctly concluded that the confidential information was credible and reliable. The disciplinary committee need not give reasons for its determination that a confidential informant is credible and reliable. Williams v. State, 421 N.W.2d 890, 893 (Iowa 1988) (citing Niday v. State, 353 N.W.2d 92, 94 (Iowa 1984)). In the present case, the disciplinary committee did inquire into the credibility and reliability of the informant(s) and we find the showing of credibility sufficient to provide McGhee with due process.

McGhee's challenge to the sufficiency of the evidence is very similar to one rejected in Losee v. State, 374 N.W.2d 402 (Iowa 1985). There, a prison disciplinary committee found the applicant guilty of planning an escape on the basis of information received from confidential

informant(s) and on the basis the informant(s) passed a psychological stress evaluation test (P.S.E.). Our supreme court affirmed the denial of postconviction relief, finding the committee's decision supported by "some evidence" in the record.

In McGhee's case, the committee summarized its findings as follows:

> That on 9-16-87 investigator Galloway reported that he had confidential information that inmate 204417 McGhee and other inmates were plotting to take one or more staff members hostage and/or to murder one or more staff, and that it was further indicated that one or more inmates were plotting the use of said disturbance as part of an escape attempt before, during or independent of said disturbance. The information came at a time when an ensuing investigation into alleged racial conflicts were taking place in industries. Additionally, security officials recovered an escape device related by the informant. Several inmates from industries indicated that McGhee and other inmates were active conspirators and/or had knowlege [sic] relative to the aformentioned [sic] plots.
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> Evidence relied on: (1) disciplinary notice of 9-16-87; (2) confidential information from an inmate; (3) P.S.E. test results of informant(s); (4) recovered escape device.

Upon our review of the record, and our in camera review of the confidential information, we conclude there is some evidence in the record to support the decision of the prison disciplinary committee. We therefore affirm the district court's denial of postconviction relief.

AFFIRMED.