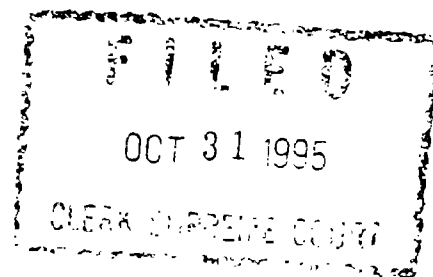


IN THE COURT OF APPEALS OF IOWA

No 5-481 / 94-1571



DAMON WILLIS,

Appellant.

vs.

STATE OF IOWA,

Appellee.

Appeal from the Iowa District Court for Jones County, David Remley, Judge.

Willis challenges the order denying his application for postconviction relief from prison disciplinary action. **AFFIRMED.**

Patrick Ingram of the Mears Law Office, Iowa City, for appellant.

Thomas J. Miller, Attorney General, William A. Hill, Special Assistant Attorney General, and Kristin W. Ensign, Assistant Attorney General, for appellee.

Considered by Hayden, P.J., and Habhab and Huitink, JJ.

HUTINK, J.

Damon Willis challenges the order denying his application for postconviction relief from a prison disciplinary action imposed for sexual misconduct and attempt or complicity. We affirm.

Damon Willis is an inmate at the Iowa Men's Reformatory in Anamosa. On August 25, 1993, he received a disciplinary notice charging him with violations of institutional rules 2 (assault), 14 (threats and intimidation), 15 (sexual misconduct), 35 (false statements), and 43 (attempt or complicity). Of these charges, Willis was found guilty of sexual misconduct and attempt or complicity. The disciplinary committee found that during July and August of 1993 Willis attempted to coerce another inmate to perform oral sex on him and to coerce another inmate to masturbate him. Willis received ten days disciplinary detention, ninety days of disciplinary detention, and the loss of sixteen days of good conduct time. Willis appealed to the district court, which held there was some evidence to support the determination that Willis did participate in sex acts and attempted to get others to participate as well. Willis appeals.

Ordinarily our review of postconviction proceedings is for errors of law. *Hinkle v. State*, 290 N.W.2d 28, 30 (Iowa 1980). When a postconviction petitioner asserts a violation of constitutional rights, however, we make our own evaluation based on the totality of the circumstances. *Id.* Here Willis asserts his due process rights were violated. As a result, our review is de novo.

Willis first argues that the district court erred in determining there was sufficient evidence to support the committee's disciplinary action. A disciplinary decision should be upheld if there is some evidence to support it. *James v. State*, 479 N.W.2d 287, 291 (Iowa 1991). The threshold for determining whether some evidence exists is low, and can be satisfied by the report of a correctional officer. *Mahers v. State*, 437 N.W.2d 565, 569-70 (Iowa 1989). Willis argues that there is not "some evidence" to support the disciplinary action taken against him. He does not raise a specific evidentiary issue, but asserts that because confidential information was used in the disciplinary proceedings he does not know if sufficient evidence exists.

Confidential information statements may provide sufficient evidence for prison disciplinary action. *James*, 479 N.W.2d at 291. On appeal, the reviewing court must conduct an *in camera* review of the confidential information to determine if it is sufficient to support the discipline. *Id.* Central to this determination is an assessment of the confidential informant's reliability. *Id.* Having reviewed the confidential statements at issue we find that there was some evidence to support the committee's decision. We are satisfied that the evidence was reliable and shows Willis violated rules 15 and 43.

Willis further contends the disciplinary committee erred in refusing to provide him with a copy of an inmate witness statement considered during the disciplinary proceedings. Willis asserts the committee's refusal violated his due process rights. The

district court held that a copy of the statement should have been provided to Willis's attorney, but refused to expunge his record on this basis. Willis claims this refusal was error

We find the disciplinary committee was correct in not allowing Willis to obtain a copy of the witness statement. Requiring the release of such witness statements would be tantamount to allowing witness confrontation. *Marshall v. State*, 524 N.W.2d 150, 152 (Iowa 1994) (citing *Wolff v. McDonnell*, 418 U.S. 539, 567-68, 94 S. Ct. 2963, 2980-81, 41 L. Ed. 2d 935, 957-58). Permitting confrontation and cross-examination of witnesses by inmates, as a matter of course, would lead to havoc inside prison walls. *Id.* As a result, we find that in the interest of maintaining prison order and security it was not error for the disciplinary committee to withhold the witness statement from Willis. Willis's due process rights were not violated.

We find there is sufficient evidence in the record to support the disciplinary committee's finding that Willis violated institutional rules 15 and 43. We further find the committee's decision to withhold the confidential witness statement from Willis did not violate due process. The disciplinary committee's decision is affirmed.

AFFIRMED.