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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-556 / 89-1610

MICHAEL REMMERS,

Appellant,

339

vs.

STATE OF IOWA,

Appellee.

Appeal from the Iowa District Court for Jones County, L. Vern Robinson, Judge.

Inmate appeals the district court's denial of postconviction relief. **AFFIRMED.**

Philip B. Mears of Mears, Zimmermann & Mears, Iowa City, for appellant.

Bonnie J. Campbell, Attorney General, Gordon E. Allen, Deputy Attorney General, and Suzie A. Berregaard, Assistant Attorney General, for appellee.

Considered by Donielson, P.J., and Schlegel and Habhab, JJ.

PER CURIAM

Petitioner, Michael Remmers, appeals a district court judgment denying his petition for postconviction relief from prison disciplinary proceedings. We affirm.

Remmers is an inmate at the Iowa Men's Reformatory. Because prison officials perceived a propensity in Remmers for taking advantage of younger and newer inmates, a prison counselor ordered Remmers to refrain from associating with a certain inmate. Remmers defied the order. Remmers was disciplined for disobeying a lawful order in violation of prison rule 23, a "major violation" of prison rules. Remmers was penalized by loss of sixteen days of good conduct time and five days of cell restriction.

Remmers exhausted administrative remedies and sought postconviction relief. The district court found that Remmers had disobeyed a lawful order. The court also found that an order requiring an inmate who "had a record showing he was a 'predator of young residents'" to refrain from associating with certain inmates was reasonable.

Our review of postconviction relief proceedings is for errors of law. Hinkle v. State, 290 N.W.2d 28, 30 (Iowa 1980). When an applicant asserts a violation of constitutional safeguards, we make our own evaluation based on the totality of the circumstances, or the equivalent of de novo review. Id.

Remmers contends the disciplinary action should be set aside because the verbal order was not reasonable.

Although he admits he defied the order, he argues that it is unreasonable to require inmates to refrain from interpersonal contacts.

The supreme court recently discussed prison rule 23 in Harper v. State, 463 N.W.2d 418, 420-21 (Iowa 1990). In Harper as in Wilson v. Farrier, 372 N.W.2d 499, 501 (Iowa 1985), the supreme court has required there be evidence that an order was given by a person in authority and that the order was communicated to the inmate. These elements are satisfied in this case because Remmers knew at all relevant times that he was required to refrain from associating with the other inmate. He admitted this throughout the proceedings, and he admits having disobeyed the order of a prison official. This evidence was cited by the disciplinary committee.

As for Remmers' constitutional challenges, we find them without merit. The supreme court has repeatedly upheld prison rule 23. See Wilson, 372 N.W.2d at 501. Having examined the record closely, we find that the order was not unreasonable or arbitrary. Because Remmers knew he would be required to refrain from associating with the inmate, neither the order nor the rule may be considered vague. We find no first amendment violation. Guy v. State, 396 N.W.2d 197, 200-02 (Iowa App. 1986).

We hold that the district court did not err in denying postconviction relief.

AFFIRMED.