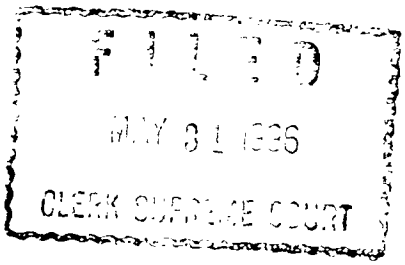
IN THE COURT OF APPEALS OF IOWA

No. 6-240 / 95-730 000284



WILLIAM MOORE,

Applicant-Appellant.

vs.

STATE OF IOWA.

Respondent-Appellee.

Appeal from the Iowa District Court for Lee County, John C. Miller, Judge.

Prison inmate William Moore appeals from a denial of postconviction relief.

AFFIRMED.

Philip B. Mears of Mears Law Office, Iowa City, for appellant.

Thomas J. Miller, Attorney General, and Bruce Kempkes, Assistant Attorney General, for appellee.

Considered by Sackett, P.J., and Cady and Streit, JJ. Vogel, J., takes no part.

PER CURIAM.

This is an appeal by an inmate claiming he is entitled to postconviction relief because the prison disciplinary committee's imposition of sanctions for his violation of a rule was arbitrary and capricious. The district court denied his request for postconviction relief. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9

On February 8, 1994, William Moore received a disciplinary notice alleging he had violated prison rule 13 by engaging in a fight with inmate McDowell in the prison kitchen. Moore consistently denied being in a fight. McDowell eventually admitted that he had fought with Moore. Both men had cut and swollen lips on the day after the fight. The prison disciplinary committee found Moore guilty of violating rule 13. The committee imposed the sanctions of thirty days of disciplinary detention, loss of 365 days of good-time credit, and administrative segregation for one year.

Moore exhausted his prison appeals, and filed a petition for postconviction relief. He claimed the sanctions imposed against him were excessive because he received greater sanctions than McDowell. The court found there was sufficient reason for the differentiation because McDowell admitted being involved in a fight. Moore appealed.

Moore now claims the sanctions imposed by the disciplinary committee were arbitrary and capricious because the administrative appeals judge admitted the sanctions for fighting and assault were generally the same. Moore believes assault is more serious, and the penalty for fighting should not be the same as that for assault.

We find that Moore failed to preserve error on this issue because he did not raise it before the district court. The issue he presently raises is different from the issue he argued in district court. However, even if we were to find Moore preserved error in this case, we would find against him on the merits.

The administrative law judge testified that he imposed similar sanctions for assault and fighting, even though assault was generally more serious, because there could be just as much harm to an individual from fighting as from assault. Based on this reasoning, we conclude the sanctions imposed against Moore were not arbitrary or capricious.

We affirm the decision of the district court denying Moore's petition for postconviction relief. Costs of this appeal are assessed to Moore.

AFFIRMED.