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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-334 / 91-1151

DARRYL K. BROWDER,

Appellant,

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vs.

STATE OF IOWA,

Appellee.

Appeal from the Iowa District Court for Jones County, Thomas M. Horan, Judge.

Darryl Browder appeals a district court decision denying his application for postconviction relief. **AFFIRMED.**

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

Bonnie J. Campbell, Attorney General, and Kristin W. Ensign, Assistant Attorney General, for appellee.

Heard by Donielson, P.J., and Hayden and Sackett, JJ.

HAYDEN, J.

Prison inmate Darryl Browder sought postconviction relief to challenge three separate prison disciplinary actions. A total of five violations were involved. As a result of these actions, Browder was disciplined for the following violations of prison rules: (1) false statements on a request for interview form, (2) threats in a letter and misuse of communications, (3) verbal abuse and intimidation of staff members, and (4) false accusations made in two formal institutional grievances submitted against staff.

After exhausting his administrative appeals, Browder applied to the district court for postconviction relief. In denying Browder's application, the district court determined sufficient evidence supported all rule violations. Browder appeals. We affirm.

The issues properly preserved for appeal in this case regard challenges to the sufficiency of evidence. Thus our review focuses on whether there is "some evidence" in the record to support the conclusion reached by the disciplinary committee. Harper v. State, 397 N.W.2d 740, 743 (Iowa 1986); Wilson v. Farrier, 372 N.W.2d 499, 501 (Iowa 1985). Constitutional issues raised by Browder on this appeal were not properly preserved for appeal. Browder had the burden of proof to show a constitutional violation by a preponderance of the evidence. Williams v. State, 378 N.W.2d 894, 897 (Iowa 1985) (citations

omitted). Even issues of constitutional magnitude will not be addressed in a postconviction action if they were not raised in the trial court. Wenman v. State, 327 N.W.2d 216, 218 (Iowa 1982). "All grounds for relief available to [a postconviction] applicant . . . must be raised in the applicant's original, supplemental or amended application." Iowa Code § 663A.8 (1991). Accordingly, Browder's appellate challenges to the disciplinary committee's actions are limited to those raised by his application in the postconviction court. Williams v. State, 421 N.W.2d 890, 893 (Iowa 1988).

I. Browder maintains there is insufficient evidence in the record to support the committee's determination he made false statements. The violation is based on Browder's statements accusing the internal investigator at the prison of recording Browder's interview and offering Browder a bribe. Sufficient evidence supports the district court's finding Browder violated the rule prohibiting false statements. In contending sufficient evidence failed to exist, Browder argues there was no finding by the adjustment committee he violated the prison disciplinary rule because there was nothing in the decision as to whether he made the statements knowingly. Browder failed to raise this issue in his administrative appeal and therefore is precluded from raising it in the trial court and in this court on appeal. Bonds v. State, 447 N.W.2d 135, 136 (Iowa 1989). In addition to the sufficiency of

evidence claim, Browder contends the disciplinary actions implicated his First-Amendment rights. This claim also has not been preserved for appeal. Iowa Code § 663A.8 (1991). We affirm the district court on this issue.

II. Browder contends there is insufficient evidence in the record to support the committee's determination he made threats, verbally abused others, and intimidated staff. The violation of the prison rule prohibiting threats involves a letter in which Browder threatened another individual. Browder testified at trial he wrote the letter. The violation for verbal abuse and intimidation are based on Browder's comments against staff. Sufficient evidence supports the district court's finding Browder violated these rules. With regard to the violation of the rule prohibiting threats, Browder also contends his First-Amendment rights were violated. This constitutional issue was not preserved. We affirm the district court on this issue.

III. The other two violations involve allegedly false statements made in two formal institutional grievances filed by Browder. Sufficient evidence supports the district court's finding Browder violated this disciplinary rule. In contending sufficient evidence failed to exist, Browder argues there was no finding by the committee he knowingly made false statements. This issue was not preserved for appeal. Bonds, 447 N.W.2d at 136. Browder also raises a constitutional issue. He contends his

discipline for making false statements in the grievances violated his right to petition for redress of grievances protected by the First Amendment. Browder failed to preserve this issue for appeal. We affirm the district court on this issue.

Accordingly, the district court judgment dismissing Browder's application is affirmed.

AFFIRMED.