

IN THE COURT OF APPEALS OF IOWA

No. 1-103 / 90-599

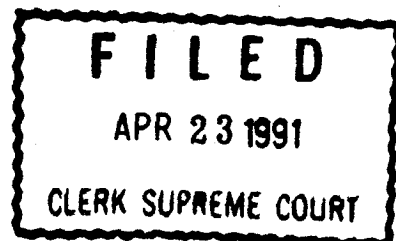
KENNETH JOHNS,

Appellant,

vs.

STATE OF IOWA,

Appellee.



Appeal from the Iowa District Court for Jones County,
William L. Thomas, Judge.

Johns appeals the district court denial of
postconviction relief. **AFFIRMED.**

Jean C. Lawrence of Mears, Zimmermann & Mears,
Iowa City, for appellant.

Bonnie J. Campbell, Attorney General, Gordon E. Allen,
Deputy Attorney General, and R. Andrew Humphrey, Assistant
Attorney General, for appellee.

Considered by Oxberger, C.J., and Hayden and Habhab, JJ.

OXBERGER, C.J.

Prison inmate Kenneth Johns was accused of manufacturing and igniting an incendiary device (a pencil bomb) within the prison. A prison disciplinary committee found Johns had violated four prison rules by engaging in disruptive conduct, by engaging in a safety violation, by possession of dangerous contraband, and by "unauthorized possession." The committee imposed several disciplinary penalties on Johns.

Johns challenged the disciplinary action by filing an application for postconviction relief. The district court denied postconviction relief and Johns has appealed.

Johns challenges the sufficiency of the evidence to support the disciplinary action. Most of the evidence was confidential information. Johns argues (1) the confidential information was inadequate to support the disciplinary action, and (2) the reliability of the confidential informants was not adequately established.

Johns also contends that because of the disciplinary committee's reliance on confidential information, he should have been granted additional due process safeguards. He suggests unspecified safeguards to confirm the reliability of the confidential information. He also suggests he should have been allowed to take a polygraph exam and afforded "substitute counsel."

Finally, Johns contends the disciplinary committee denied him due process by refusing to let him review certain

written statements by witnesses and confront those witnesses favorable to his case.

Actions for postconviction relief are law actions and we review only for corrections of errors at law. Harper v. State, 397 N.W.2d 740, 742 (Iowa 1986). However, when a postconviction petitioner asserts violation of constitutional safeguards we make our own evaluation based on the totality of the circumstances which is the equivalent of de novo review. Hinkle v. State, 290 N.W.2d 28, 30 (Iowa 1980). We review prison disciplinary committee decisions for whether "some evidence" in the record supports the decision. Harper v. State, 397 N.W.2d at 743 (authorities omitted). When an inmate is disciplined on the basis of confidential information, there must be some indication of the confidential informant's reliability. Howard v. State, 439 N.W.2d 193, 194 (Iowa 1989).

Upon our in camera review of the record we conclude there is some evidence in the record supporting the disciplinary committee's decision finding Johns in violation of various prison rules. The reliability of the confidential informants involved was adequately evaluated. The statements corroborated each other and the physical evidence collected at the site where the pencil bomb exploded further corroborated the confidential information.

Although Johns contends he should have been provided additional due process safeguards because the committee

relied on confidential information when making its decision, he fails to show any prejudice which resulted from the proceedings. Johns was provided the opportunity to present evidence to support his contention he was not involved. Johns' contention he should have received greater safeguards is without merit.

Lastly, Johns argues he should have been allowed to review the statements made by the witnesses he called to testify in his favor. We disagree. Generally, an inmate in a disciplinary hearing does not have a due process right to confront witnesses. Mahers v. State, 437 N.W.2d 565, 568 (Iowa 1989). Further, a prisoner's right to call witnesses is not unlimited and must be weighed against institutional safety and correctional goals. Id. Johns has failed to make any showing of actual prejudice from his inability to review or confront the witnesses favorable to his case.

AFFIRMED.