

IN THE COURT OF APPEALS OF IOWA

FILED

MAY 23 1989

CLERK SUPREME COURT

MARK ASCHAN

)

Applicant-Appellant,

)

vs.

)

23

STATE OF IOWA,

)

8-688
88-169

Resister-Appellee.

)

Appeal from the Iowa District Court for Jones County
(CL 71-0687), L. Vern Robinson, Judge.

The defendant appeals the denial of his application for
postconviction relief challenging two decisions of the
prison disciplinary committee at Anamosa. **DISMISSED.**

Philip B. Mears, of Mears, Zimmerman & Mears, Iowa
City, for applicant-appellant.

Thomas J. Miller, Attorney General; Anuradha
Vaitheswaran, Assistant Attorney General; and Lucille
Hardy, Assistant Attorney General, for resister-appellee.

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

OXBERGER, C.J.

Applicant, Mark Aschan, has appealed the denial of his application for postconviction relief challenging two decisions of the prison disciplinary committee at Anamosa concerning incidents in 1984 and 1986. We dismiss this appeal for failure to exhaust appellate procedure under Iowa Code section 663A.2 (1987).

Iowa Code section 663A.2(6) authorizes a postconviction relief action if "[t]he person's reduction of sentence pursuant to sections 903A.1 through 903A.7 has been unlawfully forfeited and the person has exhausted the appeal procedure of section 903A.3(2)." (Emphasis added.) Section 903A.3(2) provides orders of the hearing officer are subject to appeal to the superintendent or warden of the institution. A decision of the superintendent or warden is subject to review by the director of the Iowa Department of Corrections. Id.

Aschan did not exhaust the appeal procedure under section 903A.3(2) for either of the two disciplinary proceedings at issue. Neither the records of the 1984 or 1986 disciplinary proceeding contain an appeal to the Department of Corrections. Exhaustion of this appellate procedure is a condition of applicability of postconviction law under section 663A.2(6). Therefore, we dismiss this appeal for failure to exhaust appellate procedure.

DISMISSED.