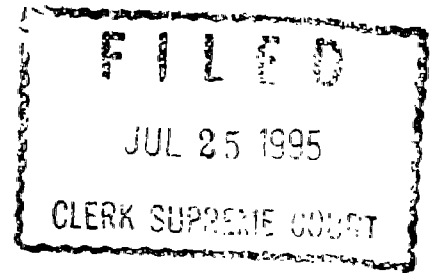


IN THE COURT OF APPEALS OF IOWA

No. 5-335 / 94-0894



WILLIAM JAMES MOORE,

Appellant,

vs.

STATE OF IOWA,

Appellee.

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

Moore appeals the district court's ruling denying him postconviction relief from prison discipline for the alleged violations of prison rules regarding defamation and disruptive conduct. **AFFIRMED.**

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

Thomas J. Miller, Attorney General, and William A. Hill, Assistant Attorney General, for appellee.

Considered by Donielson, C.J., and Hayden and Huitink, JJ.

HUTINK, J.

William Moore appeals the district court's decision denying his claim for postconviction relief. We affirm.

Moore, an inmate at the Iowa State Reformatory, was the subject of two disciplinary reports in November 1992. The first concerned sexual misconduct after he was observed masturbating by a female correctional officer. The second concerned remarks he made about this offense that allegedly violated prison rules regarding disruptive/obstructive conduct and defamation. These remarks included: "How can you play with your dick when it isn't hard." and "She's the one who got raped at Oakdale, how can she say I was playing with my dick."

The reformatory's adjustment committee found Moore guilty of these offenses following a combined hearing on both reports. The committee imposed sanctions including loss of a portion of Moore's accumulated good time.

Moore appealed the committee's decision to the warden. In this appeal, Moore referred only to the sexual misconduct allegations. He did not refer to the defamation or disruptive conduct determinations. The warden denied Moore's appeal.

Moore then filed an appeal with the director of the department of corrections. This appeal contains a detailed discussion of Moore's version of the sexual misconduct incident. There is also a nonspecific reference to the propriety of Moore's remarks about the correctional officer. There is no reference to the definition of defamation or

the truthfulness of Moore's statements about the officer. The director also denied Moore's appeal.

Moore sought postconviction relief in the district court. In his petition Moore made allegations regarding the constitutionality of the disruptive conduct rule and the absence of evidentiary support for the committee's conclusions that he defamed a correctional officer. Moore was permitted to amend his petition to include an allegation that the hearing officer, a member of the committee, did not understand the definition of defamation.

The district court found sufficient evidentiary support for the committee's disciplinary action and dismissed Moore's petition. Moore's 179(b) motion requesting the court to address the elements of defamation and the absence of evidence regarding the truth of Moore's statements was denied.

On appeal, Moore contends the district court's finding of sufficient evidentiary support for the department's disciplinary decision was error. He also contends the committee misapplied the prison rule regarding defamation by not requiring the allegedly defamatory statements to be false.

The State argues Moore has failed to preserve error by not raising these issues in the administrative process. Because we agree with the State, the decision of the district court must be affirmed.

Absent constitutional claims, our review in postconviction relief appeals is for errors at law. *Wenman v. State*, 327 N.W.2d 216, 217 (Iowa 1986).

Prison disciplinary decisions are appropriately reviewed on postconviction relief. *See* Iowa Code § 822.2(5). This remedy, however, is not available to prisoners who fail to preserve error in the administrative process. *Bonds v. State*, 447 N.W.2d 135, 136 (Iowa 1989) (citations omitted). The administrative process includes a hearing by the administrative law judge, an appeal to the warden, and an appeal to the director of the department of corrections. Iowa Code § 903A.3(2).

In this case, Moore's initial appeal to the warden was limited to the sexual misconduct issue. By failing to raise any issues regarding the committee's decision to discipline Moore for disruptive conduct or his allegedly defamatory remarks, Moore failed to appeal this portion of the committee's decision to the warden. We are also unable to find sufficient reason for Moore's failure to raise these issues prior to asserting them on postconviction relief. Moore has failed to preserve his claims by failing to raise them in the administrative process.

The judgment of the district court is affirmed.

AFFIRMED.