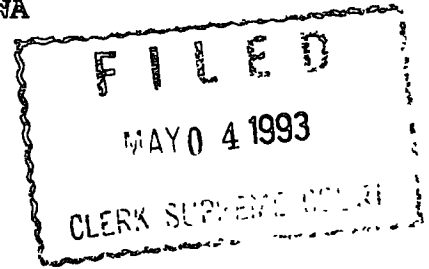


IN THE COURT OF APPEALS OF IOWA

No. 3-060 / 92-121



CLAYTON E. MANNING,

Appellant,

000401

vs.

STATE OF IOWA,

Appellee.

Appeal from the Iowa District Court for Lee County,
William E. Dowell, Judge.

Clayton Manning appeals from the district court's
denial of his application for postconviction relief.
AFFIRMED.

Linda Del Gallo, State Appellate Defender, and Ahmet S.
Gonlubol, Assistant State Appellate Defender, for
appellant.

Bonnie J. Campbell, Attorney General, and William A.
Hill, Assistant Attorney General, for appellee.

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

OXBERGER, C.J.

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On January 23, 1990, Fort Madison inmate Arthur Killinger signed a letter authored by inmate Clayton Manning which was directed to a LaShawna Bennett of Waterloo. The letter requested Bennett investigate the jury that presided at Killinger's trial. Manning also wrote a request for a check to be drawn from Killinger's institutional account in the amount of \$265 to accompany the letter. Killinger signed the check request. Killinger, however, is only able to read his own name. The check request was approved by a counselor.

On January 30, 1990, Manning was served with a disciplinary notice charging him with violating numerous prison rules, including misuse of the mail and attempt or complicity in obtaining Killinger's money. Killinger stated Manning was only acting under his direction. The disciplinary committee, however, determined the money was being sent to Manning's fifteen-year-old stepson, and not to an investigator. The disciplinary committee found Manning guilty of the violations, and imposed sanctions of fifteen days disciplinary detention, loss of 180 days good time, and restriction to his cell for a period of six months. After exhausting his administrative appeals, Manning filed the present application for postconviction relief. The district court denied the application. Manning has appealed.

Manning also maintains Internal Affairs confused the address on the envelope. He argues the letter was intended for LaShawna Bennett, Sr. not LaShawna Bennett, Jr., his stepson. LaShawna Bennett, Sr., is a private investigator. Manning contends he was simply assisting Killinger in finding an investigator since Killinger cannot read or write. Manning maintains the disciplinary committee did not attempt to ascertain whether the LaShawna Bennett at the Argyle Street address was the investigator Killinger sought to employ.

Discussion

In postconviction relief proceedings, the requirements of due process are satisfied when the decision of the disciplinary board is supported by "some" evidence in the record. Walpole v. Hill, 472 U.S. 445, 465, 105 S. Ct. 2768, 2773, 86 L. Ed. 2d 356, 364 (1985); Allen v. State, 418 N.W.2d 67,71 (Iowa 1988). The relevant inquiry is "whether there is any evidence in the record that could support the conclusion reached by the disciplinary board". Hill, 472 U.S. at 455-56, 105 S. Ct. at 2774-75, 86 L. Ed. at 3865.

In this case, the evidence indicated that the LaShawna Bennett who resided at the address to which Manning attempted to mail Killinger's money order was Manning's stepson, not a private investigator. Both the request for

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postage and the money order referred only to LaShawna Bennett at the Argyle Street address. There was no reference to a LaShawna Bennett, Sr. on any of the records, but LaShawna Bennett, Manning's stepson, was included on Manning's visitation list. Finally, the Waterloo Police Department reported to Internal Affairs that LaShawna Bennett, Sr. was not a private investigator.

Based on the evidence, we conclude there was sufficient evidence from which to find Manning had violated the institutional rules.

Manning next contends he cannot be found guilty of violating Rule 41 (complicity) because he was not found guilty of violating Rule 40 (misuse of mail).

We have affirmatively held prison rule 41 provides fair and adequate notice that an attempt to violate other prison rules may be treated as though the inmate had actually violated another prison rule. See *Winnett v. State*, 472 N.W.2d 625, 626 (Iowa App. 1991). Accordingly, we affirm the decision of the district court.

AFFIRMED.