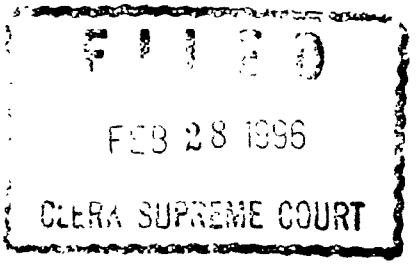
IN THE COURT OF APPEALS OF IOWA

No. 5-666 / 94-2123



MICHAEL A. BARTNICK,

Appellant,

vs.

STATE OF IOWA,

Appellee.

Appeal from the Iowa District Court for Lee County, Harlan W. Bainter, Judge.

Michael A. Bartnick, appeals from a denial of his application for postconviction relief. **AFFIRMED.**

Alan N. Waples of Wittkamp & Waples, Burlington, for appellant.

Thomas J. Miller, Attorney General, and R. Andrew Humphrey, Assistant Attorney General, for appellee.

Considered by Hayden, P.J., and Cady and Huitink, JJ.

CADY, J.

Michael Bartnick appeals a denial of his application for postconviction relief. On our review, we affirm.

Prison officials issued Bartnick a disciplinary report for the unauthorized possession of certain contraband while in disciplinary detention in violation of Disciplinary Rule 16. On January 27, 1993 Iowa State Prison investigator Reuben Baker contacted Bartnick to find out if he desired to make comments or present witnesses for the defense of his disciplinary report. Baker stated in his report there were "no comments from Bartnick concerning the reports. No witnesses requested."

The Iowa State Penitentiary (ISP) adjustment committee reviewed Baker's report and found Bartnick guilty of violating Rule 16. Bartnick received fifteen days disciplinary detention, loss of sixteen days good conduct time and all suspended dispositions invoked. Bartnick's appeal to the Warden alleging a due process violation was denied, as was his appeal to the Iowa Department of Corrections.

Bartnick later filed for postconviction relief under Iowa Code chapter 822 (1993) with the district court alleging a denial of due process. At the district court hearing Baker's report as well as the entire disciplinary packet and the prison rule book were admitted. The rule book described procedures investigators such as Baker follow in investigating disciplinary matters. These duties require an investigation to be performed soon after the disciplinary notice is served, by a person who is not a witness or involved in the reporting staff. The procedures also require the

investigator to prepare witness statements; prepare a record if a prisoner chooses not to be interviewed; advise inmate of possible prosecution, his or her right to remain silent, and that any statements may be used against him or her; interview witnesses requested by staff, the accused inmate, and other persons deemed necessary; gather other appropriate information appropriate to the incident; prepare a written record as to the findings, statements, physical evidence, and other relevant information; and be available to be interviewed. Bartnick also testified at the hearing. The district court reviewed all the evidence presented and denied Bartnick's request for postconviction relief.

Bartnick appeals contending the district court erred in denying his postconviction relief request. He argues Baker lied and had never contacted him with regards to comments or witness statements concerning his violation, as he had been transferred to a different cell block at the time Baker had conducted his investigation. He contends if Baker had contacted him, he would have requested an administrative memo tending to absolve him of guilt, and would have called witnesses. He also asserts the disciplinary committee refused to check the log book to determine if Baker had been in the same cellhouse Bartnick was in at the time of the investigation.

We ordinarily review postconviction relief rulings for correction of errors at law. *Giles v. State*, 511 N.W.2d 622, 626 (Iowa 1994). However, when a postconviction petitioner asserts a violation of constitutional safeguards we make our

own evaluation based on the totality of the circumstances which is equivalent of de novo review. *Hinkle v. State*, 290 N.W.2d 28, 30 (Iowa 1980).

As long as some evidence exists to support the decision of the disciplinary committee, due process has been satisfied. *Backstrom v. Iowa District Court*, 508 N.W.2d 703, 710 (Iowa 1993). We will affirm a district court's decision if "some evidence" exists to support the committee's ruling. *Giles*, 511 N.W.2d at 626.

Here the district court determined Baker's signature on the bottom of the report indicated he had met with Bartnick, discussed the report with him, and Bartnick had no comment nor wished to present witnesses. The district court further found Bartnick's contention the disciplinary committee did not conduct a proper investigation to check the log books to determine if Baker's investigation was complete to be without merit.

The district court possessed the best judgment with respect to Bartnick's credibility. The court found him not to be credible in his contentions he never met with Baker and never possessed the contraband in question. Moreover, we agree with the district court the log reports presented by Bartnick do not directly refute the statement made by Baker in his report. The report detailed the contraband was seized from Bartnick's cell. Bartnick merely denied he possessed the contraband and proffered no evidence to support his contention.

We find the statements by Baker, Bartnick's lack of credibility, and the lack of evidence to refute the seizure of contraband from Bartnick's cell constitutes "some

evidence" to support the decision. *See* Iowa R. App. P. 14(f)(7) (we give weight to the fact findings of the trial court, especially when considering the credibility of witnesses). We affirm the district court's denial of postconviction relief.

AFFIRMED.