

Commonwealth of Kentucky

Court of Appeals

NO. 2011-CA-000383-MR

TEKO HATFIELD

APPELLANT

v.

APPEAL FROM LYON CIRCUIT COURT
HONORABLE C. A. WOODALL, III, JUDGE
ACTION NO. 10-CI-00062

STEFANY THORNBERRY; JOHN PHILLIPS;
MIKE BUSH; MARTY COOK; STEVE R. WOODWARD;
DENNIS W. CARTWRIGHT; RITCHIE S. ROBERTS;
AND BRYAN HENSON, WARDEN

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: DIXON, MOORE AND THOMPSON, JUDGES.

THOMPSON, JUDGE: Teko Hatfield appeals from an order of the Lyon Circuit Court dismissing his petition for declaratory judgment following a prison disciplinary proceeding where he was found guilty of physical action against an employee or non-inmate. For the reasons stated, we affirm.

On August 21, 2009, an inmate riot broke out at the Northpoint Training Center in Burgin, Kentucky. After the riot was quelled, Lieutenant J. Phillips reported that Hatfield and several other inmates had chased and thrown objects at correctional officers during the riot. Lt. Phillips's statements were recorded in a "Disciplinary Report Form Part 1-Write Up and Investigation," dated October 7, 2009, which was prepared by Corrections Officer Stefany Thornberry.

Before the hearing, Hatfield was given the opportunity to submit questions to inmate witnesses who would testify by affidavit but he declined. After conducting a hearing, the adjustment committee found Hatfield guilty of physical action against an employee or non-inmate, a Category 7-1 violation. He was sentenced to 180 days of disciplinary segregation and forfeited 730 days of non-restorable good time. Hatfield then appealed to the warden who upheld the adjustment committee's finding of guilt and its imposition of sentence.

On May 4, 2010, Hatfield filed a petition for declaratory judgment in the Lyon Circuit Court. Hatfield argued that he was denied due process because the adjustment committee's findings were not supported by evidence. He further argued that his due process rights were violated when he was denied the right to call live witnesses during his disciplinary hearing. On August 30, 2010, the trial court issued an order dismissing Hatfield's declaratory action claim. The trial court found that there was sufficient evidence to support the adjustment committee's ruling and that Hatfield's due process rights were not violated.

Hatfield argues that there was insufficient evidence to find him guilty of committing the charged violation. He contends that he had an iron-clad alibi and that the charging document failed to state who Hatfield allegedly assaulted.

CR 12.02(f) provides that the failure to state a claim upon which relief can be granted is a sufficient ground for dismissal of a claim. When a motion to dismiss is made, trial courts cannot grant the motion unless it appears the pleading party would not be entitled to relief under any set of facts which could be proved in support of his claim. *Pari-Mutuel Clerks' Union of Kentucky, Local 541, SEIU, AFL-CIO v. Kentucky Jockey Club*, 551 S.W.2d 801, 803 (Ky. 1977). “In determining whether a complaint should be dismissed, the issue is a matter of law.” *Grand Communities, Ltd. v. Stepner*, 170 S.W.3d 411, 417 (Ky.App. 2004).

Our standard of review of a prison disciplinary committee’s findings of fact is the “some evidence” standard. *Smith v. O’Dea*, 939 S.W.2d 353, 358 (Ky.App. 1997). This standard of review does not require that a factual finding be supported beyond all reasonable doubt or even by compelling evidence but rather evidence that will support a reasonable inference of guilt. *Id.* at 357.

In this case, Lt. Phillips stated that he observed Hatfield chase prison staff and throw objects at them during the riot. Although Hatfield and other inmates denied that Hatfield engaged in this conduct, the committee found that Lt. Phillips was a more credible witness and that Hatfield committed the violation. While Hatfield disagrees with this finding, our task is not to review these facts *de novo* but only to determine if the finding of guilt was supported by “some

evidence.” From a review of the record, we conclude that the adjustment committee’s finding of guilt was reasonable and, thus, sufficiently supported.

Hatfield contends that the trial court erred by rendering its decision based on information that was not contained in his administrative record. Thus, he contends that his procedural due process rights were violated.

Prison inmates facing disciplinary proceedings are not entitled to the complete array of rights as non-institutionalized individuals charged with crimes. *Wolff v. McDonnell*, 418 U.S. 539, 561-62, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974). Prisoners are provided only with minimum standards of due process. *O’Dea*, 939 S.W.2d at 357. The minimum due process rights of prisoners are satisfied when the inmate is provided advance written notice of his charges; provided with an opportunity to call witnesses and present evidence when consistent with institutional safety and correctional goals; and provided with a written statement from the fact-finder of the evidence relied on and the reasons for the disciplinary action. *Foley v. Haney*, 345 S.W.3d 861, 863-64 (Ky.App. 2011).

The trial court’s order dismissing Hatfield’s action provided that prison officials had submitted an internal document regarding the riot for *in camera* review. Prison officials argue that the document was only provided to the trial court and not Hatfield due to institutional security concerns. According to prison officials, the internal report contained the names of other non-party inmates and non-party employees. However, during all stages in his proceedings, Hatfield was presented with the evidence supporting the adjustment committee’s finding.

The committee, the warden, and the trial court relied on the statements of Lt.

Phillips that he observed Hatfield chase and throw objects at prison staff.

Accordingly, we conclude that Hatfield's procedural rights were not violated.

Hatfield contends that his due process rights were violated when he was found guilty of physical action against an employee or non-inmate. He argues that the record shows that he did not make physical contact with an employee.

Therefore, he contends that he could only be convicted of attempted physical action against an employee, not actual physical action against an employee.

Under Kentucky Corrections Policies and Procedures (KCPP) 15.2 (I), a physical action means "any act of fighting, hitting, kicking, shoving, pushing, biting, using force or other similar types of physical contact, throwing, squirting or spitting any item, substance or fluid." Further, KCPP 15.2 (II) E.1.a. provides that "[a] person may be found to have committed the violation listed in this policy if he [a]ttempts to commit the violation[.]" Therefore, if an inmate attempts to commit physical action against an employee, which is contained in KCPP 15.2, he will be deemed to have committed the principle offense despite our traditional criminal law concept of attempt. Accordingly, the facts contained in the record were sufficient to find Hatfield in violation of a physical action against an employee.

Hatfield argues that his due process rights were violated when he was denied the right to call and confront witnesses. Although conceding that he refused his opportunity to serve written interrogatories on witnesses, he argues that

he refused because he would need to ask the witnesses follow-up questions. Thus, he argues that he was unduly restricted by his limitation to written questions.

We have previously stated the procedural rights that must be afforded to inmates in a prison disciplinary proceeding. Specifically, a prison must provide an inmate with an opportunity to call witnesses when consistent with institutional safety and correctional goals. *Foley*, 345 S.W.3d at 863. Hatfield was permitted by prison officials to obtain testimony from witnesses through interrogatories. He rejected the opportunity because he felt the evidentiary method was too restrictive. While he disagrees with the procedural methods used, prison officials have broad discretion regarding the handling of inmate witnesses. *Baxter v. Palmigiano*, 425 U.S. 308, 322, 96 S.Ct. 1551, 47 L.Ed.2d 810 (1976). Therefore, we conclude that Hatfield's due process rights were not violated by the use of interrogatories.

After reviewing the record, we conclude that Hatfield's due process rights were not violated. Hatfield was provided advance written notice of his charges, provided with an opportunity to present his defense, and provided with a written statement citing the evidence relied on and the reasons for his punishment.

For the foregoing reasons, the Lyon Circuit Court's order dismissing Hatfield's petition for declaratory judgment is affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Teko Hatfield, *Pro Se*
Eddyville, Kentucky

BRIEF FOR APPELLEE:

Stafford Easterling
Justice and Public Safety Cabinet
Frankfort, Kentucky