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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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ELVIS JOSEPH AMARAME,

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No. CV 10-057-TUC-BPV

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Petitioner,

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**ORDER**

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vs.

)

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CONRAD M GRABER,

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14

Respondent.

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Pending before the Court is a Petition for Writ of Habeas Corpus pursuant to Title 28, United States Code, Section 2241 (“Petition”). (Doc. 1)

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All parties in this case have consented to proceed, pursuant to 28 U.S.C. § 636(c), before Magistrate Judge Velasco for all proceedings in this case, including trial and entry of final judgment, and to conduct all post-judgment proceedings, with direct review by the Ninth Circuit Court of Appeals if an appeal is filed.

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Before the Court is the Petition (Doc. 1) and memorandum (Doc. 2), declaration and exhibits (Doc. 3), Respondent’s answer with exhibits (Doc. 10) (“Answer”), and Petitioner’s reply (Doc. 14) (“Reply”) and affidavits (Doc. 15).

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**I. PROCEDURAL BACKGROUND**

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At the time Petitioner, Elvis Joseph Amaram, filed his Petition he was an inmate at the Federal Correctional Institution in Safford, Arizona. (See Doc. 1; Answer, Ex. 1) At the time of his alleged constitutional deprivation, Amaram was

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1 incarcerated at McRae Correctional Facility (“MCF”)<sup>1</sup> in McRae, Georgia. (*Id.*)  
2 Amaram is currently serving a 240-month sentence of incarceration for Conspiracy  
3 to Possess with Intent to Distribute Heroin at the Adams County Correctional Center  
4 in Natchez, Mississippi, and is projected to complete this sentence on November 25,  
5 2011, via Good Conduct Release. (Answer, Ex. 1) Petitioner filed this § 2241 petition  
6 contending that he was impermissibly deprived of twenty-seven (27) days of good  
7 conduct time (“GCT”) after being found guilty by a disciplinary hearing officer  
8 (“DHO”) of participating in a group demonstration that consisted of boycotting three  
9 specific meals served at MCF, in violation of prison regulations. (*See generally* docs.  
10 1 and 2.)

11 Amaram raises four grounds for relief in his Petition: (1) CCA official’s failed  
12 to produce and consider videotape evidence requested by Petitioner during  
13 disciplinary proceedings; (2) CCA officials harassed and retaliated against Petitioner,  
14 refused to hold a Unit Disciplinary Committee (“UDC”) hearing as mandated, and  
15 barred Petitioner’s staff representative from interviewing witnesses; (3) Petitioner’s  
16 medical documents were ignored in favor of a CCA employed nurse; and (4)  
17 Disciplinary Hearing Officer (“DHO”) and Special Investigation Supervisors (“SIS”)  
18 were not certified to seize prison time and were riddled with conflicts of interest. As  
19 relief, Petitioner requests restoration of the 27 days of GCT. (Doc. 1 at 9; Doc. 2 at  
20 11)

21 The Court directed service to be effected on Respondent and instructed  
22 Respondent to show cause why Petitioner's writ should not be granted by filing a  
23 response within 20 days of the date of service. (Doc. 7) Respondent contends that  
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26 <sup>1</sup> MCF is a private correctional facility operated by the Corrections  
27 Corporation of America (“CCA”) under contract with the Bureau of  
28 Prisons. (Answer, Ex. 1, ¶ 2)

1 Petitioner was afforded all of the due process protections required for a prison  
2 discipline hearing. (*See generally* doc. 10)

### 3 **II. DISCIPLINARY CHARGES AND PROCEEDINGS**

4 On January 30, 2009, Petitioner was given notice of being charged with  
5 Engaging in a Group Demonstration for allegedly taking part in a group boycott by  
6 failing to participate in three meals over the course of two days on January 28 and 29,  
7 2009. (*See* DHO Report (attached to Petition), at 1, 4). The DHO hearing was held on  
8 March 18, 2009, and Case Manager Martin Brock was appointed as Amaramé's staff  
9 representative. (*Id.*)

10 Amaramé responded to the charges with a statement that, because of his  
11 medical conditions he has his lunch sent to his unit and a "home boy" cooks his meals  
12 in the unit for him. (DHO Report, ¶ III.B.) On the morning of January 29, 2009,  
13 however, Amaramé told [Unit Manager] Jordan of his medical condition and that he  
14 was going to pick up his tray. (*Id.*)

15 Case Manager Brock contacted three witnesses, and asked them questions on  
16 Petitioner's behalf; the witnesses also appeared at the hearing and were asked  
17 questions by the DHO. (DHO Report, ¶ C.2.; *Id.*, ¶ v.) Correctional Officer A.H.  
18 Wright stated that Amaramé was at work in the library when he approached her to  
19 inquire if the Kosher meal had been announced. (*Id.*) Because it was past time for the  
20 meal, she radioed the kitchen to confirm that Kosher had been announced. (*Id.*)  
21 Amaramé and other inmates from the library then proceeded to attempt to pick up  
22 their trays. (*Id.*) Amaramé returned to the library and informed her that they had been  
23 too late for the meal. (*Id.*, at 3.) Officer Wright stated that when they were released  
24 late, they would normally not come back stating they were late, but "Staff lets them  
25 come back with education at 12:00 noon." (*Id.*)

26 Case Manager Brock questioned another inmate, Millad Ghattan. (*Id.*, at 2)  
27 Case Manager Brock asked Ghattan if he worked at the library on January 29, 2009,  
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1 and if he saw Amaramé there that day. Ghattán stated that he did, and that he heard  
2 Amaramé ask Officer Wright if Kosher cards were called, that she didn't know, and  
3 then she called them. (*Id.*) Ghattán stated that the Library Officer checked with the  
4 dining hall and determined that the Kosher meal had been announced. (*Id.*) Ghattán  
5 stated that when they got to the dining hall they were late; they were finished serving.  
6 (*Id.*) Ghattán stated that Amaramé informed Officer Wright that they were late. (*Id.*)  
7 Ghattán also stated that he sits and eats cooked meals together with Amaramé  
8 regularly, and that another inmate, named Clairmont Melville, cooks for inmate  
9 Amaramé. (*Id.*) The DHO questioned Ghattán, confirming that Kosher meals are  
10 often called late, and that staff normally tells them to come back with the education  
11 call at 12:00 noon. (*Id.*, at 3) The DHO asked Ghattán how Amaramé eats his meals,  
12 and Ghattán stated that Melville brings Amaramé his food in the hall and Amaramé  
13 takes it to the unit. (*Id.*) Ghattán stated that he has not witnessed Amaramé eat meals  
14 prepared by Melville. (*Id.*) Ghattán stated that Amaramé receives the facility served  
15 Kosher meals, and takes it to the unit, but does not, as far as he knows, eat the facility  
16 served Kosher meals. (*Id.*,3-4) Ghattán stated that he knows Melville cooks for  
17 Amaramé because that is what Amaramé and Melville have told him. (*Id.*)

18 The DHO asked Amaramé if he was aware of the boycott of the Kosher meal,  
19 and if he had participated in the Kosher meal on January 28 and 29, and he stated  
20 "No," that he had not eaten the evening meal on January 28, 2009, and the breakfast  
21 and noon meal on January 29, 2009 because he has to cook his high fiber food as  
22 ordered by the doctor. (*Id.*, at 3) The DHO considered the documentary evidence  
23 including Meal Monitoring Records, which indicated that Amaramé had participated  
24 in 17 of the 23 meals between the breakfast meal on January 22, 2009 through the  
25 noon meal on January 29, 2009. Of the six missed meals, three meals were identified  
26 as the target meals of the group demonstration. (*Id.*) Amaramé explained that he  
27 receives the meals, but does not eat them, and that he did not receive the meals during  
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1 the group demonstration because Melville wasn't there, and Amaramé doesn't eat the  
2 meals. (*Id.*) Amaramé stated that on January 29, 2009, he left from the library to pick  
3 up his meal, but he was late. (*Id.*) The DHO presented Amaramé with a memorandum  
4 from Clinical Supervisor Leslie Rugenburg, R.N., indicating she had reviewed  
5 Amaramé's medical chart and determined that he has no medical condition that would  
6 prevent him from participating in the Dietician approved menu. (*Id.*, at 3-4) Amaramé  
7 indicated that his exhibits were from a doctor. (*Id.*) Additionally, the DHO  
8 considered an interview questionnaire completed by Unit Manager T. Jordan on  
9 January 29, 2009, wherein Amaramé stated that no one had encouraged him not to  
10 participate in the facility provided meals, and that he had been advised that if he  
11 continued to participate in the group demonstration by not receiving the noon meal  
12 on January 29, 2009, he would receive disciplinary action.

13 The DHO found the act was committed as charged, basing the finding on:

14 [T]he greater weight of the evidence, the reporting officers written  
15 statement in section 11 of Incident Report number 1827702 stating,  
16 "Inmate Amaramé, Elvis was identified as participating in the group  
17 demonstration by not participating in the facility served meals of the  
18 evening meal on January 28, 2009, breakfast on January 29, 2009 and  
19 the noon meal on January 29, 2009." Meal Monitoring Records  
20 Review data that indicates between January 22, 2009 breakfast meal  
21 through January 29, 2009 noon meal you participated in 17 of the 23  
22 meals out of the 6 meals you did not participate three were the three  
meals identified as the group demonstration boycott. The fact that you  
were informed of the group demonstration on January 29, 2009 by Unit  
Manager T. Jordan and instructed to participate in the noon meal on  
January 29, 2009. You chose to continue your participation in the group  
demonstration by not participating in the noon meal on January 29,  
2009. The memorandum from Clinical Supervisor Leslie Rugenburg  
determining that your medical condition would not have prevented you  
from participating in the facility prepared meals.

23 (*Id.*, at 4)

24 The DHO considered Amaramé's claim that he was under medical orders to  
25 cook high fiber diets, but found that Clinical Supervisor Rugenburg's memorandum  
26 clearly indicated that his medical condition did not affect his participation in the  
27 facility served meals on the dates indicated in the group demonstration. The DHO

1 considered the meal monitoring review data and noted a change in his meal  
2 participating during the dates of the group demonstration indicating participation in  
3 the group demonstration. (*Id.*) The DHO discredited Amaramé's claim that he  
4 attempted to participate in the noon meal on January 29, 2009, but was late, finding  
5 that, based on Ghattan and Wright's testimony that he could have returned to the  
6 dining hall at 12:00 noon with Education call to receive his meal, but chose to  
7 continue the group demonstration and not participate in the meal. (*Id.*) The DHO  
8 considered his claim that the Incident Report was in retaliation for not signing an  
9 affidavit for Special Investigation Supervisors ("SIS") as unfounded, since the  
10 incident report was written before his interviews with SIS staff in regard to the  
11 incident, and therefore could not be retaliatory. The DHO considered Amaramé's  
12 documentary evidence insufficient to explain why Amaramé did not participate in the  
13 evening meal of January 28, 2009 and the breakfast and noon meal of January 29,  
14 2009, other than his participation in the group demonstration. (*Id.*)

15         Based on this evidence, the DHO found Petitioner guilty of participating in the  
16 Group Demonstration and sanctioned him with a loss of 27 days of GCT, disciplinary  
17 segregation for thirty (30) days, and a recommendation for disciplinary transfer. (*Id.*)  
18 The DHO explained that he had imposed this sanction because such behavior  
19 "threatens the safety of all inmates as well as the overall security of the facility. In the  
20 past, group demonstrations have led to ser[i]ous damage to facilities as well as  
21 ser[i]ous injury to staff and inmates alike, to both people involved and people not  
22 involved in the demonstration." (*Id.*) With these facts in mind, the Court turns to the  
23 merits of the claims raised in the § 2241 petition.

### 24 **III. DISCUSSION**

#### 25         A. Jurisdiction

26         A petitioner filing a petition for writ of habeas corpus under 28 U.S.C. § 2241  
27 must file the petition in the judicial district of the petitioner's custodian. *Brown v.*  
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1 *United States*, 610 F.2d 672,677 (9<sup>th</sup> Cir. 1980). This Court has territorial jurisdiction  
2 over the case in question since Petitioner was incarcerated at FCI Safford when he  
3 filed his Petition. FCI Safford is within the District of Arizona.

4 B. Exhaustion of Administrative Remedies

5 Respondent concedes that Petitioner exhausted his administrative remedies  
6 regarding the disciplinary action. (Answer, at 3; Ex.1, Attachment 3, Administrative  
7 Remedies)

8 C. Ground One

9 Petitioner argues that the disciplinary procedures violated his due process  
10 rights because he was denied the opportunity to present evidence because his request  
11 for the hallway videotape taken on January 29, 2009 was denied. (Doc. 1, at 4; Doc.  
12 2, at 2-3)

13 Federal prisoners have a statutory right to good time credits. *See* 18 U.S.C. §  
14 3624. Accordingly, they have a due process interest in the disciplinary proceedings  
15 that may take away those credits. *Wolff v. McDonnell*, 418 U.S. 539, 556-57 (1974).  
16 "Due process in a prison disciplinary hearing is satisfied if the inmate receives written  
17 notice of the charges, and a statement of the evidence relied on by the prison officials  
18 and the reasons for disciplinary action." *Zimmerlee v. Keeney*, 831 F.2d 183, 186 (9th  
19 Cir. 1987), *cert. denied*, 487 U.S. 1207 (1988). "The inmate has a limited right to call  
20 witnesses and to present documentary evidence when permitting him to do so would  
21 not unduly threaten institutional safety and goals." *Id.* Once these *Wolff* procedural  
22 protections are followed, the only function of a federal court is to review the statement  
23 of evidence upon which the committee relied in making its findings to determine if  
24 the decision is supported by "some evidence." *Superintendent. Mass. Corr. Inst. v.*  
25 *Hill*, 472 U.S. 445, 455 (1984) ("The requirements of due process are satisfied if some  
26 evidence supports the decision by the prison disciplinary board.") Respondent  
27 addressed the "some evidence" requirement, asserting that the decision by the  
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1 disciplinary board was supported by some evidence. Amaramé, however, raises  
2 procedural due process issues which were not addressed by Respondent. This Court  
3 is obligated to reach the merits of Amaramé's claims.

4 Petitioner's exhibits demonstrate that he requested the "Hallway camera firm  
5 record from the law library to the cafeteria on 1-29-09" and additionally requested a  
6 statement of whether or not the DHO possessed the record. (Doc. 3-1, at 13.) The  
7 DHO did not consider the videotape evidence, nor is there evidence before the Court  
8 that he considered the request. (*See generally* DHO Report) In response to Petitioner's  
9 administrative appeal asserting that the DHO did not produce the requested hallway  
10 video to check the time Amaramé got to the closed cafeteria, Administrator James  
11 Burrell responded to Petitioner's claim - that a hallway video could prove Petitioner  
12 went to eat on January 29, 2009 but the cafeteria was closed - by stating, non-  
13 responsively, that "no video evidence was considered by the DHO in this case."  
14 (Answer, Ex. 1, Attachment 3) Respondent has neither addressed nor disputed  
15 Petitioner's assertion that there is videotaped evidence in the custody of MCF which  
16 would show that Petitioner belatedly attempted to pick up the noon Kosher meal on  
17 January 29, 2009.

18 Amaramé has a due process right to "present documentary evidence in his  
19 defense when permitting him to do so will not be unduly hazardous to institutional  
20 safety or correctional goals." *Wolff*, 418 U.S. at 566. Prison officials have the  
21 necessary discretion to structure the hearing to keep it within reasonable limits by  
22 limiting an inmates ability to compile documentary evidence. *See Id.* At the same  
23 time, however, the Supreme Court has refused to establish an "across-the-board"  
24 policy imposing a duty on a disciplinary board to explain why inmates were not  
25 allowed to present witnesses or evidence. *See Wolff, supra; Ponte v. Real*, 471 U.S.  
26 491, 496 (1985). Nonetheless, if denied the right to present documentary evidence,  
27 due process requires prison officials to provide an explanation, either in the

1 administrative record or in court. *Ponte*, 471 U.S. at 497. The MCF has not offered  
2 any reason for denying Petitioner access to the videotape, nor has Respondent even  
3 addressed Amaramé’s argument. Because Respondent has not addressed this issue,  
4 Respondent has not asserted any penological justification for denying this  
5 presentation of the evidence. *See Wolff v. McDonnell*, 418 U.S. 539, 566 (1974).

6         Neither does the Court find that the videotape evidence would be irrelevant.  
7 The DHO based his findings on the fact that Petitioner was informed of the group  
8 demonstration on January 29, 2009 by Petitioner’s unit manager and instructed to  
9 participate in the noon meal on January 29, 2009, yet “chose to continue [his]  
10 participation in the group demonstration by not participating in the noon meal on  
11 January 29, 2009.” (DHO Report, ¶ V.) Yet, the undisputed testimony of Officer  
12 Wright, Inmate Ghattan, and Petitioner is that Petitioner was not called out from the  
13 library to participate in the noon Kosher meal. The DHO stated that he discredited  
14 Petitioner’s statements that he attempted to participate in the noon meal because he  
15 could have returned to the dining hall at 12:00 noon with Education to receive his  
16 meal, but there is no evidence in the DHO’s report that establishes what time  
17 Petitioner approached Officer Wright, what time he was informed he had missed  
18 Kosher meal, what time he left the law library, and what time he returned after finding  
19 the cafeteria closed. The requested videotape evidence would presumably establish  
20 this timeline, and is thus relevant to the inquiry. Absent this timeline, the statements  
21 from Officer Wright and Inmate Ghattan that “normally” Petitioner could go back  
22 with the education call when they missed Kosher lunch does not establish “some  
23 evidence” of what happened on January 29, 2009.

24         Accordingly, Petitioner’s uncontested allegations, and facially plausible  
25 assertion demonstrating Petitioner’s request for evidence relevant to the determination  
26 of a material issue which was denied without explanation or sufficient penological  
27 justification supports Petitioner’s claim of a lack of due process in the disciplinary  
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1 proceedings. Respondent will be ordered to expunge the disciplinary ruling and  
2 restore Amaramé's 27 days of good time credit or hold a new disciplinary hearing at  
3 which the videotape evidence will be produced and considered. *See Downey v.*  
4 *Crabtree*, 100 F.3d 662, 671 (9<sup>th</sup> Cir. 1996) (noting that ordinary procedure is to  
5 remand to BOP for its reconsideration).

6 D. Ground Two

7 Petitioner argues in Ground Two that CCA officials imposed punishment  
8 before the UDC and DHO hearings, engaged in psychological warfare at solitary  
9 confinement, retaliated against Petitioner, refused to hold UDC hearings as mandated  
10 in the rules, and barred Petitioner's staff representative from speaking or interviewing  
11 the witnesses. Respondent does not address this specific claim. It is, however, without  
12 merit.

13 A prisoner who wishes to challenge the manner, location, or conditions of a  
14 sentence's execution must bring a petition pursuant to § 2241 in the custodial court.  
15 *Hernandez v. Campbell*, 204 F.3d 861, 864 (9<sup>th</sup> Cir.2000). Petitioner argues, in  
16 Ground Two of his Petition, that CCA officials engaged in "psychological warfare  
17 and retaliated against Petitioner before the hearings" and he was placed in solitary  
18 confinement and taunted by security officers at MCF. Ordinarily, this Court would  
19 exercise its discretion to construe a habeas petition which attacks the conditions of  
20 confinement as a civil rights action pursuant to 42 U.S.C. § 1983. *See Hansen v. May*,  
21 502 F.2d 728, 279-30 (9<sup>th</sup> Cir. 1974)(a *pro se* litigant whose habeas petition  
22 challenges conditions of confinement is "entitled to have his action treated as a claim  
23 for relief under the Civil Rights Act"). However, because the substance of Petitioner's  
24 claim, including much of Ground Two of the Petition, is that he was wrongfully  
25 deprived of twenty-seven days of good time credit, and because he seeks the  
26 restoration of this time, the Court will decline to construe any portion of the petition  
27 as a claim for relief under 42 U.S.C. § 1983.



1           Notably, even in cases such as this one, where the UDC Hearing has not been  
2 timely held, a violation of a Bureau of Prisons regulation does not rise to a due  
3 process violation. Indeed, due process does not impose a requirement that an initial  
4 hearing be held within three days of the staff becoming aware of an incident. As noted  
5 above, the Supreme Court held that the Constitution requires compliance with  
6 minimal federal due process standards and explained that these minimal requirements  
7 are: (1) written notice of the charges against him at least 24 hours before his hearing;  
8 (2) a written statement by the fact finders as to the evidence relied upon and the  
9 reasons for the disciplinary action taken; and (3) an opportunity to call witnesses and  
10 present documentary evidence in his defense. *Wolff*, 418 U.S. at 563-67. As these  
11 requirements were met in this case, Petitioner's dissatisfaction with the delay that  
12 occurred between the suspected boycott and his disciplinary hearing do not implicate  
13 due process concerns. Moreover, the relevant inquiry is not “whether the prison  
14 complied with its own regulations,” but whether Plaintiff was “provided with process  
15 sufficient to meet the *Wolff* standard.” *Walker v. Sumner*, 14 F.3d 1415, 1420 (9th  
16 Cir.1994), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995).

17           As to Petitioner’s claim that the DHO barred Petitioner’s staff representative  
18 from speaking or interviewing petitioner’s witnesses, including staff witnesses, before  
19 the DHO hearing, there is no support in the record for Petitioner’s claim.  
20 Administrator Burrell addressed this claim in Petitioner’s grievance and noted that  
21 “the DHO report contains statements from your witnesses responding to questions  
22 submitted by you to your staff representative. By policy, only the DHO can ask  
23 questions during the hearing; therefore, these statements are an indication that our  
24 staff representative ‘interviewed’ your witnesses prior to the hearing.” (Answer, Ex.  
25 1, Attachment 3; see also DHO Report, at ¶¶ II.E., and III. C.2.)

1           Accordingly, the Court finds that Petitioner's claim in Ground Two that he was  
2 deprived of procedural due process is without merit and fails to provide a basis for  
3 relief.

4           E.     Ground Three

5           Petitioner argues, in Ground Three of the Petition, that medical documents  
6 require Petitioner to eat only a high fiber diet and that “Petitioner’s medical  
7 documents from licensed and practicing [doctors], were ignored in preference for  
8 CCA employed Nurse Leslie Rugenberg” in violation of the due process clause and  
9 the Eighth Amendment. Respondent does not address this specific claim. It is,  
10 however, without merit.

11           The DHO report indicates that Amaram submitted three handwritten  
12 statements and 9 exhibits. (*See* DHO Report, ¶ III.D.) There is no evidence that  
13 Amaram submitted any evidence from either Dr. Irfan or Dr. Gonzalez to the DHO.  
14 (*See Id.*) Amaram has submitted no evidence from either doctor to this Court. The  
15 DHO considered Nurse Rugenberg’s statement that she had reviewed the medical  
16 chart and determined that he had no medical condition that would prevent him from  
17 participating in the dietician approved menu. (*See Id.*) Furthermore, even if Petitioner  
18 had submitted such evidence, Petitioner is not challenging the procedures of the  
19 disciplinary hearing in Ground Three, only the conclusion reached by the DHO. Such  
20 a decision must be based on “some evidence.” *Superintendent v. Hill*, 472 U.S. 445,  
21 455 (1985). "The relevant question is whether there is any evidence in the record that  
22 could support the conclusion reached by the disciplinary board." *Id.* at 455-56. If so,  
23 then due process is satisfied. *Id.* The court need not examine the entire record,  
24 independently assess the credibility of the witnesses, or weigh the evidence. *Id.* at  
25 455.

26           There is “some evidence,” specifically Nurse Rugenberg’s testimony, that  
27 supports the DHO’s conclusion finding that Petitioner had no medical condition that  
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1 would prevent him from participating in the facility approved meals. Accordingly,  
2 there is no due process violation.

3 F. Ground Four

4 Petitioner argues, in Ground Four, that DHO Carey was not properly certified  
5 to seize prison time, and that both DHO R. Troy Carey and SIS Darryl Goodner were  
6 “riddled with conflicts of interest.”

7 To the extent Petitioner is again raising a retaliation or harassment claim  
8 regarding SIS Goodner, Petitioner is referred to this Court’s discussion in Ground  
9 Two regarding habeas corpus petitions pursuant to 28 U.S.C. § 2241 as an  
10 inappropriate vehicle to bring claims challenging conditions of confinement.

11 Regarding Petitioner’s argument that DHO Carey was not properly certified,  
12 or was not impartial, Respondents oppose the argument, submitting that DHO Carey  
13 was not involved in the investigation of the group demonstration, and thus was an  
14 impartial decision-maker under the definition set forth in *Wolff, supra*. Indeed, an  
15 inmate is entitled to have a charge against him determined by an impartial  
16 decisionmaker. *Wolff*, 418 U.S. at 563-72. The record does not reflect that the DHO  
17 was in any way involved in the facts giving rise to Petitioner’s charge, thus, there is  
18 no basis to conclude that the DHO was not impartial.

19 **IV. CONCLUSION**

20 Based on the foregoing,

21 IT IS HEREBY ORDERED that Petitioner’s Petition for Writ of Habeas  
22 Corpus pursuant to 28 U.S.C. § 2241 is GRANTED in part and DENIED in part;

23 IT IS FURTHER ORDERED that Respondent is ordered to expunge the  
24 disciplinary ruling and restore Amaram’s 27 days of good time credit or hold a new  
25 disciplinary hearing within forty-five (45) days at which time the videotape evidence  
26 will be produced and considered;

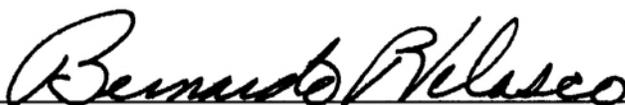
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IT IS FURTHER ORDERED that Grounds Two, Three, and Four of the  
Petition for Writ of Habeas Corpus are DENIED;

IT IS FURTHER ORDERED that judgment shall enter accordingly;

The Clerk of Court is DIRECTED to mail Petitioner a court-approved form for  
filing a civil rights complaint by a prisoner.

DATED this 29<sup>th</sup> day of April, 2011.

  
\_\_\_\_\_  
Bernardo P. Velasco  
United States Magistrate Judge