



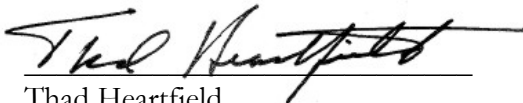
*Prisons*, 440 F. App'x 373, 374-75 (5th Cir. 2011).

Petitioner also contends that he took the cereal boxes from the trash because an officer had instructed him to retrieve the material from the trash. Petitioner does not state he raised this argument at his disciplinary hearing. The petition makes no reference to petitioner acting under instructions when he removed the cereal from the trash. Nor did petitioner mention this in the administrative grievances he provided to the court. Regardless, even if petitioner raised this argument before the Discipline Hearing Officer (“DHO”), the DHO was free to accept petitioner’s explanation that he was acting under instructions and find petitioner not guilty, or to find this explanation to be less than credible and find petitioner guilty. The charging officer’s report that petitioner was in possession of the 77 boxes of cereal constituted “some evidence” of petitioner’s guilt. As a result, there was sufficient evidence to support the disciplinary conviction. *Superintendent, Massachusetts Correctional Institution v. Hill*, 472 U.S. 445, 454 (1983).

ORDER

Accordingly, petitioner’s objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in accordance with the recommendation of the Magistrate Judge.

**SIGNED** this the 7 day of **May, 2018**.

  
Thad Heartfield  
United States District Judge