

RENDERED: December 24, 1997; 2:00 p.m.
NOT TO BE PUBLISHED

NO. 96-CA-2828-MR

DAVID W. WILLIAMS

APPELLANT

v. APPEAL FROM OLDHAM CIRCUIT COURT
HONORABLE DENNIS A. FRITZ, JUDGE
ACTION NO. 96-CI-400

JUSTICE CABINET,
DEPARTMENT OF CORRECTIONS
and LIEUTENANT WILLIAM D.
MEREDITH, ADJUSTMENT
COMMITTEE CHAIRMAN

APPELLEES¹

OPINION
AFFIRMING

* * *

BEFORE: KNOPF, MILLER, AND SCHRODER, JUDGES.

SCHRODER, JUDGE: David W. Williams, an inmate, appeals pro se from a judgment dismissing his petition for a declaratory judgment. No brief was filed on behalf of the appellees. In reviewing the record and the appellant's brief, we find no error and hence, affirm.

¹Appellant's notice of appeal listed the attorney for the Department of Corrections and the Chairman of the Adjustment Committee. Rather than dismiss this appeal, we corrected the caption.

David W. Williams (Williams) is an inmate at the Luther Lockett Correctional Complex in LaGrange, Kentucky. On July 3, 1996, a search of Williams' cell produced legal papers belonging to sixteen different inmates. An investigation was completed on July 26, 1996 at 3:06 p.m. by Lt. Larry Voirol, who gave a copy to Williams, together with a notice of a hearing before the adjustment committee. Williams did not waive his 24-hour notice of a hearing, but the hearing was continued to July 30, 1996.

Williams was charged with "loan sharking" and for "charging for legal services" but was only found guilty of charging for legal services. His conviction was based partly on a tip by a confidential informant. Williams was sentenced to 60 days of disciplinary segregation, suspended for 180 days, plus forfeiture of 60 days of good time. A warden's appeal affirmed the adjustment committee's recommendation. Williams appealed to the circuit court, which dismissed his appeal and denied a motion to reconsider.

On appeal to this Court, Williams argues three points: improper use of the confidential informant's information; failure to waive a twenty-four hour advance notice of the hearing; and lack of evidence to convict of the loan sharking.

The first argument is that the information received from the confidential informant was inadequate and that Williams was not able to confront or examine the informant on information within the report, which should require a reversal. We disagree. Due to the obvious risks involved to the confidential informant,

his identity does not have to be revealed. Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed 935 (1974); Hensley v. Wilson, 850 F.2d 269 (6th Cir. 1988); Gilhaus v. Wilson, Ky. App., 734 S.W.2d 808 (1987). According to Gilhaus, supra, the verification of the confidential information does not need to be comprehensive, but the committee must include some reference to verification. This was done in this case because the findings were based upon past reliability and corroboration of the information.

Williams' second argument is that he did not sign a waiver of the twenty-four hour written notice of the hearing before the adjustment committee. Inmates are entitled to a twenty-four hour written notice of disciplinary charges according to Wolff v. McDonnell, supra. The written notice in this case was given to Williams on July 26, 1996 (a Friday afternoon), and his hearing was not held until August 1, 1996 (Tuesday), thus there was no need to waive the notice requirement. Inmates are given that option only when it may be possible to have the hearing within twenty-four hours. Therefore, Williams' procedural rights were not violated.

Finally, the last argument, that the committee had insufficient evidence to convict him of loan sharking or debt collection, is without merit. The adjustment committee apparently agreed and found him not guilty of this charge. This issue obviously was not discussed in circuit court and we wonder why the appellant is asking us to review a favorable ruling.

For the foregoing reasons, the judgment of the Oldham Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

NO BRIEF FOR APPELLEES

David W. Williams, Pro Se
LaGrange, Kentucky