

RENDERED: AUGUST 31, 2001; 10:00 a.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court Of Appeals

NO. 2000-CA-001012-MR

MYRON A. YOUNG

APPELLANT

v.

APPEAL FROM MORGAN CIRCUIT COURT
HONORABLE SAMUEL C. LONG, JUDGE
ACTION NO. 00-CI-00066

GEORGE MILLION¹

APPELLEE

OPINION
AFFIRMING
** ** * * * * *

BEFORE: BUCKINGHAM, JOHNSON AND TACKETT, JUDGES.

JOHNSON, JUDGE: Myron A. Young has appealed from an order of the Morgan Circuit Court entered on April 7, 2000, which dismissed his petition for declaration of rights. Young sought relief from a prison disciplinary action wherein he was found guilty of the administrative offense of "assault or physical action against an employee[.]" Having concluded that the disciplinary proceedings met all constitutional due process requirements, we affirm.

¹George Million apparently is the warden at the Eastern Kentucky Correctional Complex.

The events giving rise to this disciplinary action occurred on July 22, 1999, when Correctional Officer Jimmy Hill, a staff member at the Eastern Kentucky Correctional Complex (EKCC), attempted to transport Young from the Marion County Jail. As Officer Hill attempted to have Young put on a prison-issued jumpsuit, Young became loud and unruly. Young waved his arms toward Officer Hill, and eventually struck Officer Hill on the left forearm with his right hand.

Following a hearing on July 27, 1999, the EKCC Adjustment Committee found Young guilty of assaulting Officer Hill and set his punishment at loss of 720 days non-restorable good time and 180 days disciplinary segregation. Young appealed to EKCC's warden, and on August 12, 1999, the warden concurred with the Adjustment Committee.

On March 9, 2000, Young filed a petition for declaration of rights in the Morgan Circuit Court. The warden and the other respondents filed a motion to dismiss which was granted on April 7, 2000. This appeal followed.

Young alleges that his constitutional due process rights were violated due to the insufficiency of the evidence presented against him at his hearing. Specifically, Young claims the Adjustment Committee based its findings solely upon Officer Hill's statement. He claims the "Extraordinary Occurrence Report" filed by Officer Hill was incomplete because the date, time and location of the occurrence were not completed and that

Hill failed to photograph his injuries as required by Kentucky Corrections Policies and Procedures.

In the context of prison disciplinary hearings, the Due Process Clause of the United States Constitution is satisfied when a prison adjustment committee's finding of guilt is supported by as least "some evidence" of record.² Courts in Kentucky have interpreted the Kentucky Constitution in the same manner, having held that due process is satisfied when "some evidence" exists to support the prison disciplinary committee's findings.³

Our review of the record reveals that the Adjustment Committee's findings were based on sufficient evidence. Officer Hill gave a statement that Young became loud and unruly and waved his arms toward Officer Hill and struck Officer Hill on the left forearm. The "Extraordinary Occurrence Report" filed by Officer Hill indicated Officer Hill suffered bruises with slight swelling to his right forearm. And, Janet Whorton, a Marion County Jail employee, testified by speaker phone that she was able to hear from an adjoining room Young being loud and argumentative.

While Young is correct that the date, time and location of the occurrence were not completed by Officer Hill on the "Extraordinary Occurrence Report" and that no photographs of his injuries were presented at the hearing, these alleged

²Superintendent v. Hill, 472 U.S. 445, 455, 105 S.Ct. 2768, 2774, 86 L.Ed.2d 356, 365 (1985).

³Smith v. O'Dea, Ky.App., 939 S.W.2d 353, 358 (1997).

deficiencies do not rise to the level of a due process violation. Given the difficulties and importance of prison administration, due process within the prison disciplinary context is minimal.⁴ We believe the Adjustment Committee more than satisfied the requirement that its findings be based on "some evidence".

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

ALL CONCUR.

BRIEF FOR APPELLANT:

Myron A. Young, Pro Se
West Liberty, KY

BRIEF FOR APPELLEE:

Rebecca Baylous
Frankfort, KY

⁴See Smith, 939 S.W.2d at 357 (citing Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974)).