

Commonwealth Of Kentucky

Court of Appeals

NO. 2005-CA-000346-MR

WILLIAM A. SHECKLES, JR.

APPELLANT

v. APPEAL FROM BOYLE CIRCUIT COURT
HONORABLE DARREN W. PECKLER, JUDGE
ACTION NO. 04-CI-00482

JAMES L. MORGAN; AND
LT. ROGER SOWDER

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: JOHNSON, KNOPF, AND VANMETER, JUDGES.

JOHNSON, JUDGE: William A. Sheckles, Jr., pro se, has appealed from an order of the Boyle Circuit Court entered on January 13, 2005, which dismissed his petition for declaration of rights¹ concerning a prison disciplinary matter. Having concluded that Sheckles received the due process of law to which he was

¹ Kentucky Revised Statutes (KRS) 418.040.

entitled in the administration of the prison discipline, we affirm.

On October 18, 2004, while imprisoned at the Northpoint Training Center, a letter was found during a routine search of Sheckles's living quarters alluding to a sexual relationship between him and a non-inmate canteen worker. Because pursuing or developing such a relationship with a non-inmate is a violation of CPP² 15.2, Category IV, Section 21, a prison adjustment hearing was held. On October 28, 2004, Lt. Roger Sowder, a prison adjustment officer, found Sheckles guilty as charged. Sheckles was required to forfeit 60 days of good-time credit and to serve 45 days in disciplinary segregation, which was suspended for 60 days.

Sheckles appealed these findings to the prison warden, James L. Morgan. On November 8, 2004, the warden concurred with the adjustment officer's findings and actions. On November 29, 2004, Sheckles filed a petition for declaration of rights in the Boyle Circuit Court. Warden Morgan and Lt. Sowder filed a response and motion to dismiss on January 10, 2005. On January 13, 2005, the circuit court denied Sheckles's petition. This appeal followed.

This Court has previously held that a motion to dismiss a petition for declaratory judgment stemming from a

² Kentucky Corrections Policies and Procedures.

prison disciplinary proceeding is most appropriately addressed as a motion for summary judgment.³ The particular guidelines to be used in reviewing cases such as this one have been set forth as follows:

Where, as here, principles of administrative law and appellate procedure bear upon the court's decision, the usual summary judgment analysis must be qualified. The problem is to reconcile the requirement under the general summary judgment standard to view as favorably to the non-moving party as is reasonably possible the facts and any inferences drawn therefrom, with a reviewing court's duty to acknowledge an agency's discretionary authority, its expertise, and its superior access to evidence. In these circumstances, we believe summary judgment for the Corrections Department is proper if and only if the inmate's petition and any supporting materials, construed in light of the entire agency record (including, if submitted, administrators' affidavits describing the context of their acts or decisions), does not raise specific, genuine issues of material fact sufficient to overcome the presumption of agency propriety, and the Department is entitled to judgment as a matter of law. The court must be sensitive to the possibility of prison abuses and not dismiss legitimate petitions merely because of unskilled presentations. Jackson v. Cain, 864 F.2d 1235 (5th Cir. 1989). However, it must also be free to respond expeditiously to meritless petitions. By requiring inmates to plead with a fairly high degree of factual specificity and by reading their allegations in light of the full agency record, courts will be better able to perform both aspects of this task.⁴

³ Smith v. O'Dea, 939 S.W.2d 353, 355 n.1 (Ky.App. 1997).

⁴ Id. at 356.

We further note that in prison disciplinary proceedings, due process requires that a disciplinary committee's decision to impose sanctions for violations of prison rules must be supported only by "some evidence."⁵

Sheckles raises two arguments. His first claim is that the disciplinary actions against him were initiated because he was in possession of mail which violated prison policies. However, we find Sheckles version of the proceedings against him to be somewhat skewed.

The record reveals that the letter found during a routine search of Sheckles's living quarters alluded to a sexual relationship that had occurred between him and a canteen worker at the prison. The canteen worker was not an inmate at the prison, but had been employed by the Department of Corrections until her termination in October 2004. Sheckles claimed that the canteen worker had not decided to send mail to him until after her termination, and therefore the mail was sent from a "free citizen of Kentucky" and was not illegal under prison policy. However, Sheckles was found guilty under CPP 15.2, Category 4, Section 21, of pursuing a relationship with a non-inmate. As the circuit court stated "[Sheckles's] argument that

⁵ Stanford v. Parker, 949 S.W.2d 616, 617 (Ky.App. 1996) (citing Superintendent, Massachusetts Correctional Institution, Walpole v. Hill, 472 U.S. 445, 455, 105 S.Ct. 2768, 86 L.Ed.2d 356 (1985)).

the person he had contact with was not an employee at the time of the discovery of the violation is not relevant and without merit. The offense involved the contact, not the status of the person." The prison policy clearly states that "[p]ursuing or developing a relationship that is unrelated to correctional activities with a non-inmate" is a violation punishable by forfeiture of good time and disciplinary segregation. The letter satisfied the standard of "some evidence." The circuit court correctly denied Sheckles's petition on this issue.

Sheckles's second argument relates to the circuit court's handling of his petition for declaratory judgment. He claims that he was denied his right to due process⁶ when the circuit court denied his petition for declaratory judgment without allowing him an opportunity to file a responsive pleading to the appellees' motion to dismiss.

Sheckles claims in his brief that he was preparing a response to the motion to dismiss when he received, by mail, the circuit court's order denying his petition. Sheckles does not indicate that his response would have included anything that was not already available in the same record and exhibits that he

⁶ In Wolff v. McDonnell, 418 U.S. 539, 563-67, 94 S.Ct. 2963, 2978-982, 41 L.Ed.2d 935 (1974), the United States Supreme Court held that while prison disciplinary proceedings are not subject to the full range of procedural safeguards, inmates are entitled to certain minimum requirements of procedural due process including advance written notice of the disciplinary charges, a written statement by the fact-finders of the evidence relied upon and the reasons for the disciplinary action, the opportunity to call witnesses and present documentary evidence consistent with institutional safety and correctional goals, and an impartial decision-making tribunal.

utilized in filing his petition for declaratory judgment. Consequently, there would have been no new information that Sheckles had not already had the opportunity to address. Accordingly, even assuming the circuit court erred in this respect, we conclude that any such error is harmless and does not constitute grounds for reversal.

Therefore, based on the foregoing reasons, the order of the Boyle Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

William A. Sheckles, Jr.,
Pro Se
Burgin, Kentucky

BRIEF FOR APPELLEE:

No brief filed.