

RENDERED: FEBRUARY 13, 2009; 2:00 P.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2008-CA-000465-MR

LEONDRUS BRIGGS

APPELLANT

v. APPEAL FROM MUHLENBERG CIRCUIT COURT  
HONORABLE DAVID H. JERNIGAN, JUDGE  
ACTION NO. 07-CI-00717

NANCY DOOM, JUSTICE & PUBLIC SAFETY  
CABINET; ROBERT HENNING, JUSTICE &  
PUBLIC SAFETY CABINET

APPELLEES

OPINION  
AFFIRMING

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BEFORE: CLAYTON, LAMBERT, AND WINE, JUDGES.

WINE, JUDGE: Leondrus Briggs is an inmate at Green River Correctional Complex (GRCC). Following a search of his cell, Briggs was charged with “concealing an item that punctures or penetrates the skin of an employee conducting a search,” in violation of the institutional rules of the facility. The

matter was submitted to a disciplinary adjustment hearing on July 17, 2007.

Briggs admits that he received notice of the hearing and the charge, and that he was provided with an inmate legal aide to assist his defense.

After being advised of his right not to testify, Briggs declined to give a statement to the hearing officer. The hearing officer then considered the evidence, which consisted of four items. First, there was the report of Officer Joshua Bidwell, who conducted the search of Briggs' cell. In the report, Officer Bidwell stated:

While searching the left desk locker which belongs to Inmate Briggs I run my hand around the top lid and felt what seemed to be a prick on my right index finger. I looked closer and observed two altered batteries and two pieces of burnt wire[.] I finished the cell search[,] went to the Officer's desk and took off my latex gloves[,] I noticed a small cut on my finger.

The hearing officer also considered a photograph of Officer Bidwell's cut finger, a photograph of the batteries and wire which caused the cut, and a letter from Briggs to another inmate in which he admitted that the batteries and wire were his. Based on this evidence, the hearing officer found Briggs guilty of the violation. As punishment for the offense, the hearing officer imposed one year of disciplinary segregation and the loss of four years of non-restorable good time credit.

Briggs appealed the hearing officer's decision to GRCC Warden Nancy Doom, who denied the appeal on August 14, 2007. Briggs then filed a declaratory judgment action in the Muhlenberg Circuit Court challenging the

adjudication of guilt and the penalty. After considering Briggs' petition and the warden's response, the circuit court denied the request for declaratory relief. This appeal followed.

A prison disciplinary hearing where an inmate's good time credit is at risk must comply with procedural due process of law. *Wolff v. McDonnell*, 418 U.S. 539, 94 S.Ct. 2963, 2975, 41 L.Ed.2d 935 (1974). However, “[p]rison disciplinary proceedings are not part of a criminal prosecution, and the full panoply of rights due a defendant in such proceedings does not apply.” *Stanford v. Parker*, 949 S.W.2d 616, 617 (Ky. App. 1996), quoting *Wolff*, at 556, 94 S.Ct. at 2975. At a minimum, the prisoner is entitled to written notice of the charges, the opportunity to present evidence in his defense, and a report by the committee of its reasoning and conclusions. *Wolff*, at 564-66, 94 S.Ct. at 2978-80. Furthermore, due process requires that the committee's decision be supported by some evidence in the record. *Smith v. O'Dea*, 939 S.W.2d 353, 356 (Ky. App. 1997), citing *Superintendent, Massachusetts Correctional Institution, Walpole v. Hill*, 472 U.S. 445, 454, 105 S.Ct. 2768, 2773, 86 L.Ed.2d 356 (1985).

Briggs challenges the prison disciplinary proceeding on three grounds. First, he argues that the photographs introduced at his hearing were not authenticated. But while the photographs were not formally authenticated, they were corroborated by Officer Bidwell's report. Moreover, even discounting the photographs, the other evidence of record was sufficient to support the hearing

officer's finding. Thus, Briggs suffered no prejudice even if the photographs were not sufficiently authenticated.

Second, Briggs argues that he was deprived of an opportunity to present a defense at the hearing, and Briggs contends that the hearing officer refused to allow his inmate legal aide to present a defense after he exercised his right to remain silent. However, Briggs does not claim that he had any evidence or witnesses that he was not permitted to present at the hearing. Thus, he cannot show that he was prejudiced as a result of the hearing officer's decision.

Finally, Briggs asserts that he was deprived of his right to adequate assistance by an inmate legal aide on the appeal to the warden. He correctly notes that he was entitled to the assistance of an inmate legal aide under Corrections Policy and Procedure (CPP) § 15.6. Briggs contends that the inmate legal aide assigned to him for the institutional appeal failed to preserve his objections to the introduction of the photographs or to the conduct of the adjustment hearing.

We find that Briggs has failed to identify a due process violation. Due process does not require the appointment of counsel in the prison disciplinary context. *Wolff*, at 569-71, 94 S.Ct. 2981-82. Thus, any right to assistance by an inmate legal aide arises under the CPP. Briggs admits that he was assisted by legal aides at the adjustment hearing and on the institutional appeal. While Briggs complains about the assistance he received from the legal aides, we have already found that the hearing officer's decision was supported by some evidence of record and that Briggs received all the due process to which he was entitled.

Consequently, we can find no due process violation arising from the assistance which Briggs received from the inmate legal aides.

Accordingly, the order of the Muhlenberg Circuit Court denying Briggs' request for declaratory relief is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Leondrus Briggs, *pro se*  
Kentucky State Penitentiary  
Eddyville, Kentucky

BRIEF FOR APPELLEE:

Brenn O. Combs  
Kentucky Justice & Public Safety  
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