

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2012-CA-001189-MR

LARRY E. WATKINS-EL

APPELLANT

v.

APPEAL FROM BOYLE CIRCUIT COURT  
HONORABLE DARREN W. PECKLER, JUDGE  
ACTION NO. 11-CI-00401

KEVIN WREN; KELLY TYREE;  
AND STEVE HANEY

APPELLEES

OPINION  
AFFIRMING

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BEFORE: DIXON, MOORE, AND TAYLOR, JUDGES.

TAYLOR, JUDGE: Larry E. Watkins-El appeals from Boyle Circuit Court orders denying his petition for declaration of rights and motion for default and/or summary judgment, and his motion for reconsideration. We affirm.

Watkins-El was an indigent inmate residing at Northpoint Training Center on May 16, 2011. On that day, Correctional Officer Kevin Wren, who worked in the legal library, called in sick. Correctional Officer James Mason was

assigned to fill in for Wren. Mason was not familiar with the procedures observed in the legal library, and, according to Wren, Watkins-El was able to obtain free materials from him in excess of what is permitted under the prison regulations. On the next day, Watkins-El attempted to obtain even more free supplies from the library.

When Wren returned to work, he discovered what had occurred and filed a disciplinary report against Watkins-El. An Adjustment Committee hearing was held on May 23, 2011. In Disciplinary Report Form, Part II – Hearing/Appeal, Adjustment Officer Kelly Tyree found Watkins-El guilty of obtaining money/goods/privileges/services under false pretenses “based on Officer Wren finding that Inmate Watkins had mailed four pieces of legal mail on 5-16-11 and then again attempted to get more legal supplies the following day.” Watkins-El unsuccessfully appealed the decision to the Warden. On August 5, 2011, Watkins-El filed a petition for declaration of rights in the Boyle Circuit Court which was ultimately dismissed. Watkins-El filed a motion for reconsideration which was denied. This appeal follows.

Our standard of review requires us to recognize that “[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.” *Webb v. Sharp*, 223 S.W.3d 113, 117 (Ky. 2007) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 556, 94 S. Ct. 2963, 2975, 41 L. Ed. 2d 935 (1974)). The minimal due process requirements in a prison disciplinary hearing include:

(1) advance written notice of the disciplinary charges; (2) an opportunity, when consistent with institutional safety and correctional goals, to call witnesses and present documentary evidence in his defense; and (3) a written statement by the fact[-]finder of the evidence relied on and the reasons for the disciplinary action.

*Id.* at 117-118.

Watkins-El does not dispute that the minimal due process requirements were observed at the hearing. Rather, he claims that the trial court erred in its order of dismissal when it stated that he had obtained legal materials in excess of what is permitted by IPP 14-01-01, the internal policies and procedures of Northpoint Training Center. He also argues that there is no evidence to support the adjustment committee's finding that he obtained the legal supplies under false pretenses.

Watkins-El has attached as an appendix to his brief a copy of IPP 14-01-01, with an effective date of March 7, 2008, which simply states:

(e) Financial Responsibilities

.....

2. An indigent inmate shall be furnished with the following free supplies as necessary in accordance with Corrections Policy and Procedure 15.7:

- a. Legal correspondence materials;
- b. Postage; and
- c. Copies.

The regulation has been revised and currently provides that an indigent inmate will be furnished with two stamps and two copies per week.

The Kentucky Department of Corrections Policy and Procedure provides that an indigent inmate may, upon request, “receive **reasonable** amounts of legal supplies, postage and copying services as necessary.” CPP 14.4(4)(E.) (emphasis added).

Prison officials are afforded broad discretion in regard to the discipline of prisoners. *Yates v. Fletcher*, 120 S.W.3d 728 (Ky. App. 2003). This discretion includes determining what constitutes a reasonable amount of legal supplies, postage and copying services. According to the description of the incident provided on the Disciplinary Report Form, Part I – Write-Up and Investigation filed by Wren, Watkins-El had mailed four pieces of mail with Mason’s assistance, and then requested one copy, six sheets of paper and one postage stamp on the next day. Wren explained:

IM [inmate]Watkins has previously been spoken to several times by myself about what he can receive as an indigent IM and has filed several grievances on the Indigent process so he is well aware of what he can receive each week. IM Watkins has tried this also in the past on other Relief Officers of the Legal Library but was caught and I denied the materials.

An appellate court must affirm the findings of a prison disciplinary committee if there is “some evidence” supporting the charge. *Yates*, 120 S.W.3d at 731. Wren’s statement constituted “some evidence” to support the trial court’s finding that Watkins-El had violated the internal policies of Northpoint Training Center.

Watkins-El further argues that there was no evidence that he obtained anything under false pretenses because he merely obtained the necessary copies and postage from Mason to meet the service requirements of court rules. Watkins-El does not, however, specify what documents he was filing, nor does he claim that a denial of legal resources hindered his efforts to pursue a nonfrivolous claim, thus violating his constitutional rights. *See Penrod v. Zavaras*, 94 F.3d 1399 (10th Cir. 1996) (*citing Lewis v. Casey*, 518 U.S. 343, 116 S. Ct. 2174, 135 L. Ed. 2d 606 (1996)). Wren’s testimony constituted “some evidence” to support the finding that Watkins-El had tried to obtain more than a reasonable amount of supplies by taking advantage of the fact that the regular library officer was absent. Under these circumstances, we are bound to uphold the decision of the Adjustment Committee. *See Yates*, 120 S.W.3d at 731.

For the foregoing reasons, the orders denying the petition for declaration of rights and denying the motion for reconsideration are affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Larry E. Watkins-El, *pro se*  
Lexington, Kentucky

BRIEF FOR APPELLEE:

Stafford Easterling  
Justice and Public Safety Cabinet  
Frankfort, Kentucky