

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

November 9, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62(1), STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 94-2877

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT IV

STATE OF WISCONSIN EX REL.
CARL A. ESTRADA,

Petitioner-Appellant,

v.

WISCONSIN DEPARTMENT OF CORRECTIONS,
STEPHEN M. PUCKETT,

Respondents-Respondents.

APPEAL from an order of the circuit court for Dane County:
MICHAEL N. NOWAKOWSKI, Judge. *Affirmed.*

Before Dykman, Sundby, and Vergeront, JJ.

PER CURIAM. Carl A. Estrada, an inmate serving a life sentence, appeals from an order dismissing his petitions for *certiorari* by which he sought review of the denial of his request to be assigned a minimum security classification. Because the record shows that the Program Review Committee

(PRC) followed the applicable regulations and because substantial evidence supports the PRC's decision, we affirm.

Estrada first claims that the administrative rules governing inmate security classifications violate the *Ex Post Facto* Clauses of the state and federal constitutions. We upheld the constitutionality of the regulations in question, which establish four categories of inmates serving life sentences, in *Burrus v. Goodrich*, 194 Wis.2d 655, 535 N.W.2d 85 (Ct. App. 1995). Therefore, Estrada's constitutional challenge fails.¹

The next issue is whether the PRC's denial of Estrada's request for a minimum security classification was proper. A security classification decision is reviewable by *certiorari*. *State ex rel. Richards v. Traut*, 145 Wis.2d 677, 679-80, 429 N.W.2d 81, 82 (Ct. App. 1988). Judicial review in a *certiorari* matter is limited to four questions: (1) whether the PRC kept within its jurisdiction; (2) whether the PRC acted according to the law; (3) whether its action was arbitrary, oppressive or unreasonable and represented its will and not its judgment; and (4) whether the evidence was such that it might reasonably make the order or determination in question. *See id.* A court will uphold the PRC's conclusion if it is supported by substantial evidence, so that reasonable minds could have reached the same conclusion. *Id.* at 680, 429 N.W.2d at 82.

Estrada argues that his positive prison record justified a reduction in security classification. In its decision denying Estrada's request, the PRC cited the assaultive nature of the underlying offense, the amount of time Estrada has served in medium security, and the fact that Estrada had been on escape status for eleven years. The factors cited by the PRC are relevant considerations under WIS. ADM. CODE § DOC 302.14. The decision to retain Estrada in medium security was reasonable.

¹ We also note that Estrada's constitutional argument appears misplaced. The record suggests that the PRC did not rely on the challenged rules in considering Estrada's security classification. After the Dane County trial court declared the rules unconstitutional, the Department of Corrections stopped applying them pending appellate review. While Estrada's "risk rating" under the rules was calculated, the PRC rejected Estrada's application for minimum security status using the pre-1988 regulations.

By the Court. – Order affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.