

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2014 IL App (4th) 130581-U

NO. 4-13-0581

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

June 4, 2014
Carla Bender
4th District Appellate
Court, IL

ROBERT CHENCINSKI,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
S.A. GODINEZ, GINA ALLEN, ALLAN MARTIN,)	No. 12MR298
MICHAEL REEDER, TIMOTHY R. QUIGLEY,)	
MARCUS T. MARVIN, and E. BERKLEY,)	Honorable
Defendants-Appellees.)	John Schmidt,
)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Justices Turner and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in granting defendants' motion to dismiss plaintiff's *mandamus* petition and petition for writ of *certiorari*.

¶ 2 Plaintiff, Robert Chencinski, an inmate at Pontiac Correctional Center (Pontiac), appeals from the trial court's dismissal of his *mandamus* petition and complaint for *certiorari* review of prison disciplinary proceedings, arguing, *inter alia*, defendants, employees of the Department of Corrections (DOC), denied him due process. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 18, 2011, plaintiff, while an inmate at Shawnee Correctional Center (Shawnee), was served with a disciplinary report charging him with solicitation to commit assault and security-threat group activity. The report was prepared by defendant, Michael

Reeder, and reviewed by defendant, E. Berkley, the hearing investigator. The report stated Reeder received the following information from confidential informant No. one: (1) on May 6, 2011, inmate Donald Currier was "violated" in the gym; (2) plaintiff was the leader of the Simon City Royals Security Threat Group (Simon City Royals) at Shawnee; (3) plaintiff ordered another inmate, Francisco Vasquez, to strike Currier twice in the face with a closed fist because Currier had been talking with inmates known to be homosexuals; (4) the incident occurred in the corner of the handball court; and (5) plaintiff tried to block the view of the incident so that other inmates would not see it.

¶ 5 Based on this information, the intelligence unit conducted an investigation. During the investigation, three additional confidential informants were interviewed. Confidential informant No. two stated on May 6, 2011, plaintiff ordered Vasquez to do a "violation" on Currier because Currier had been associated with inmates known to be homosexuals. This informant stated plaintiff and Vasquez took Currier to the corner of the gym by the handball court, plaintiff positioned himself to block the view of other inmates, and Vasquez hit Currier twice in the face. Confidential informant No. three said plaintiff was the leader of the Simon City Royals at Shawnee. He said Currier had been "violated" because plaintiff heard Currier had been talking with an inmate known to be homosexual. Confidential informant No. four stated plaintiff was the leader of the Simon City Royals at Shawnee and ordered Vasquez to give Currier "two mouth shots" after Currier was seen talking to an inmate known to be homosexual. This informant stated Vasquez did not want to do it but plaintiff told Vasquez "either you do him or I do you." Vasquez hit Currier in the mouth twice but did not hit hard and did not leave a mark other than a little redness. Reeder reported all persons involved were identified by state

photo identification, but the names of the confidential informants were withheld for the safety and security of the institution. Reeder also reported, "[o]ther information too sensitive to be included in this [institutional disciplinary report (IDR)] is on file in the Intel Unit."

¶ 6 Plaintiff was served with the disciplinary report at 8:25 a.m. on May 20, 2011. He agreed to waive the 24-hour notice of charges prior to the disciplinary hearing.

¶ 7 On May 20, 2011, at 10:17 a.m., the adjustment committee, comprised of defendant, Timothy Quigley, as the chairperson, and defendant, Marcus Marvin, conducted a hearing. The adjustment committee's final summary report reflects "no witnesses requested." The record of proceedings contained in the report indicates plaintiff appeared and gave testimony. He pleaded not guilty. He admitted he was with the Simon City Royals, as were Currier and Vasquez. Plaintiff's job at the prison was as "[leisure time services (LTS)] porter for the 3-11 shift." He stated on May 6, 2011, he was working in the gym but denied he ordered a "hit" on Currier. Plaintiff stated he had a great relationship with Currier and Vasquez. Plaintiff stated he would have a problem with Currier if he was associating with a known homosexual. Plaintiff admitted he had "juice" with the Simon City Royals but denied he would tell anyone to do anything like that (punching Currier). He stated he could have done it himself and would have tried to break Currier's jaw.

¶ 8 The adjustment committee's final report reflected the bases for its decision included: (1) Reeder's investigative report, (2) plaintiff's testimony, (3) Reeder's testimony about the veracity of his report as written, and (4) Reeder's statement regarding the "validity" of the confidential informants used in the investigation and the fact they had been resourceful and reliable in the past.

¶ 9 The adjustment committee found plaintiff guilty of the charged offenses. The adjustment committee recommended the following discipline for plaintiff: one year of C-grade status, one year in segregation, revocation of one year of good-conduct credits, six months' restriction of contact visits, and transfer to a higher-level security facility. Defendant, Allan Martin, as the chief administrative officer, concurred in the adjustment committee's disciplinary recommendations.

¶ 10 In June 2011, plaintiff filed a grievance with the administrative review board. He claimed (1) no facts supported the disciplinary decision; (2) the adjustment committee failed to call his witnesses, even though he had written the names of two witnesses on the yellow copy of the disciplinary report and four more names on a piece of paper, had given those papers to correctional officer Bailey, and saw the papers in the hearing room; (3) the adjustment committee failed to consider the activity sheet he gave to the adjustment committee for the week of May 15 through 19, 2011, allegedly showing he did not work on Fridays and Saturdays, and allegedly proving he was not at work on the date of the incident since May 6, 2011, was a Friday; and (4) the adjustment committee refused and failed to give plaintiff a "ticket summary."

¶ 11 In September 2011, defendant, Gina Allen, from the administrative review board, recommended plaintiff's grievance be remanded to the adjustment committee to have the requested witnesses interviewed or to provide the reason why they were not interviewed. Defendant, S.A. Godinez, Director of DOC, concurred. In November 2011, the administrative review board issued a final determination denying the grievance. The administrative review board explained Quigley advised the administrative review board plaintiff "was given every opportunity to provide witnesses; he never marked any witnesses on the white copy when [the]

ticket was served or brought the bottom of the yellow copy when the ticket was heard. Had witnesses been requested[,] they would have been interviewed, however[,] they were neither requested nor provided." (In May 2012, pursuant to a recommendation from the prisoner review board, the Director's office approved reducing the revocation of plaintiff's good-conduct credits from one year to two months.)

¶ 12 In March 2012, plaintiff filed a *mandamus* petition and a petition for writ of *certiorari*, alleging, *inter alia*, his due-process rights were violated by prison disciplinary and administrative officials. Plaintiff sought court review of his disciplinary report and vacation of the decision and penalties imposed pursuant thereto. Plaintiff alleged he was denied due process during the disciplinary proceedings because (1) the evidence was insufficient to support the finding of guilt because (a) Reeder did not conduct a full investigation, working only with informants who came forward two weeks after the alleged incident; did not interview any other witnesses or take any other statements; and did not explain why there was no victim, no victim statement, and no medical record of an assault on May 6, 2011; (b) Berkley did not conduct any investigation, did not speak to plaintiff, did not interview any witnesses, and did not interview the informants; (c) Quigley and Marvin failed to interview any of the confidential informants, failed to consider plaintiff's activity sheet, failed to call plaintiff's witnesses, failed to allow plaintiff to present a defense, and falsely stated plaintiff had not requested any witnesses; (d) the adjustment committee's report inaccurately reported the statements plaintiff made during the disciplinary hearing; (e) the adjustment committee's summary was inadequate because it was conclusory and did not state why it relied on some evidence and not on other evidence, and (f) the adjustment committee failed to provide plaintiff with the summary report; (2) Martin signed

off on the disciplinary action without reviewing the actual hearing process and did not respond to correspondence from plaintiff; (3) Allen failed to expunge the ticket after revealing arbitrary action taken by the adjustment committee when it stated plaintiff had not requested any witnesses; (4) Godinez overlooked the procedures and failed to see or overlooked the arbitrary-action and due-process violations of the adjustment committee; (5) plaintiff did not receive a fair hearing; and (6) defendants failed to follow their own rules and policies.

¶ 13 In April 2012, the trial court *sua sponte* dismissed plaintiff's petition as "frivolous and without merit." Plaintiff appealed and this court vacated the trial court's dismissal and remanded for further proceedings because the matter was not ripe for adjudication where defendants had not been served. *Chencinski v. Godinez*, 2012 IL App (4th) 120435-U.

¶ 14 In February 2013, Godinez and Allen moved to dismiss plaintiff's *mandamus* complaint pursuant to section 2-615 of the Code of Civil Procedure (Code). 735 ILCS 5/2-615 (West 2012). They argued plaintiff failed to state a claim for relief because the complaint was devoid of any facts to support a claim for *mandamus* or to explain how Godinez and Allen were involved in plaintiff's ticket and hearing, and to explain what duty they had to provide plaintiff the relief he sought.

¶ 15 In February 2013, plaintiff filed a response, asserting in addition to the *mandamus* petition he had filed a petition for writ of *certiorari*. Plaintiff pointed out his petition for *certiorari* set forth all claims, all defendants' names, and their actions constituting violations of his due-process rights. Plaintiff explained, since he had been transferred before he could file a grievance, the grievance had to be sent to the administrative review board in Springfield, where Allen acted as the grievance liaison and Godinez acted as the chief administrator. Plaintiff sued

Allen for failing to expunge his disciplinary report after reviewing all the evidence. Plaintiff sued Godinez because he concurred in Allen's decision.

¶ 16 In March 2013, Godinez and Allen filed a reply, arguing plaintiff failed to state a claim for *certiorari* as well because he did not allege facts showing they violated his due-process rights since neither Allen nor Godinez were involved in the disciplinary report, the investigation, or the adjustment committee hearing; they were not fact finders. They argued procedural due-process requirements are limited to the fact-finding body, in this case the prison's adjustment committee.

¶ 17 In April 2013, Marvin, Martin, Reeder, Quigley, and Berkley filed a combined motion to dismiss and to quash service pursuant to section 2-619.1 of the Code. 735 ILCS 5/2-619.1 (West 2012). Defendants' motion to dismiss pursuant to section 2-615 of the Code (735 ILCS 5/2-615 (West 2012)) argued (1) the evidence was sufficient to find plaintiff guilty, *i.e.*, the adjustment committee report clearly stated it relied on the statements of multiple informants provided by Reeder, which directly implicated plaintiff in the violations; (2) plaintiff was not denied his due-process rights as a prison inmate because he was provided (a) 24 hours' advance written notice of the charges against him, (b) a hearing before an impartial tribunal, (c) an opportunity to speak in his own defense, and (d) a written statement of the fact finders outlining the evidence presented and the basis of the discipline; and (3) no evidence in the record showed plaintiff requested witnesses.

¶ 18 Defendants' motion to dismiss pursuant to section 2-619 (735 ILCS 5/2-619 (West 2012)) argued plaintiff's petition should be dismissed pursuant to subsection (a)(3) (735 ILCS 5/2-619(a)(3) (West 2012)) because plaintiff had another action pending pursuant to section 1983

(42 U.S.C. § 1983 (1996)) in the United States District Court for the Southern District of Illinois between the same parties, for the same cause, and contesting the exact same disciplinary proceeding at issue in the instant case. *Chencinski v. Reeder*, USDC SDIL 12-817.

¶ 19 Defendants filed a motion to quash pursuant to section 2-301 of the Code (735 ILCS 5/2-301 (West 2012)) alleging they were not served in a timely fashion, citing Illinois Supreme Court Rule 102(b) (eff. Jan. 1, 1967), requiring service of summons no later than 30 days after its issuance date. Summonses were issued for defendants on December 31, 2012. Defendants Martin, Quigley, and Reeder were served on February 26, 2013. Defendant Martin was served on February 28, 2013. Defendant Berkley was served on March 1, 2013. Since they were not properly served, defendants argue the service of process should be quashed as to them.

¶ 20 In May 2013, plaintiff responded to the combined motion. Regarding the motion to quash, he explained what had occurred with the summonses. Regarding the section 2-615 motion to dismiss, plaintiff basically reiterated the allegations of his *certiorari* complaint as to how he was denied due process. Regarding the section 2-619 motion to dismiss, plaintiff stated he let the United States District Court case be "dismissed."

¶ 21 On June 12, 2013, the matter was set for a telephone hearing on defendants' motions to dismiss and motion to quash. The docket entry for the hearing states, "Cause called on for [r]espondent's [m]otion to [d]ismiss and [q]uash. Arguments heard. Defendant's [m]otion to [d]ismiss is [a]llowed. [Assistant Attorney General] is [t]o provide the [c]ourt with a written order within 30 days." The June 13, 2013, order states, "This cause coming on for hearing on defendants' [m]otion to [d]ismiss, and this [c]ourt being fully advised in the premises. IT IS HEREBY ORDERED THAT defendants' [m]otion is granted." We note the trial court order did

not refer to plural motions to dismiss. However, we find the court expressly intended to dispose of all motions to dismiss as to all defendants when it granted "defendants' motion" as the grounds for dismissal applied equally to all defendants. Accordingly, the court's order is a final appealable order, and we have jurisdiction of this appeal pursuant to Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994).

¶ 22

II. ANALYSIS

¶ 23 On appeal, plaintiff argues the trial court erred in dismissing both his complaint for *mandamus* relief and his petition for writ of *certiorari*. We disagree and affirm.

¶ 24

A. Standard of Review

¶ 25 A motion to dismiss under section 2-615 of the Code challenges only the legal sufficiency of the complaint. *Pickel v. Springfield Stallions, Inc.*, 398 Ill. App. 3d 1063, 1066, 926 N.E.2d 877, 881 (2010). In ruling on a section 2-615 motion to dismiss, "the question is 'whether the allegations of the complaint, when construed in the light most favorable to the plaintiff, are sufficient to establish a cause of action upon which relief may be granted.'" *Green v. Rogers*, 234 Ill. 2d 478, 491, 917 N.E.2d 450, 458-59 (2009) (quoting *Vitro v. Mihelcic*, 209 Ill. 2d 76, 81, 806 N.E.2d 632, 634 (2004)). The trial court should not grant the motion to dismiss "unless it is clearly apparent that no set of facts can be proved that would entitle the plaintiff to relief." *Tedrick v. Community Resource Center, Inc.*, 235 Ill. 2d 155, 161, 920 N.E.2d 220, 223 (2009). We review the dismissal pursuant to section 2-615 *de novo*. *Thurman v. Champaign Park District*, 2011 IL App (4th) 101024, ¶ 7, 960 N.E.2d 18.

¶ 26

B. Writ of *Certiorari*

¶ 27 "A common law writ of *certiorari* is a general method for obtaining circuit court

review of administrative actions when the act conferring power on the agency does not expressly adopt the Administrative Review Law and provides for no other form of review." *Hanrahan v. Williams*, 174 Ill. 2d 268, 272, 673 N.E.2d 251, 253 (1996). The standards of review in such an action "are essentially the same as those under the Administrative Review Law." *Id.*, 673 N.E.2d at 253-54. Because the statutes regarding prison disciplinary procedures (see 730 ILCS 5/3-8-7 to 3-8-10 (West 2012)) neither adopt the Administrative Review Law nor provide another method of judicial review of disciplinary procedures, *certiorari* review of prison discipline is generally appropriate. *Alicea v. Snyder*, 321 Ill. App. 3d 248, 253, 748 N.E.2d 285, 290 (2001).

¶ 28

1. *The Disciplinary Report*

¶ 29

On appeal, plaintiff argues Reeder and Berkley violated his due-process rights because they did not conduct an investigation into his defense. This argument is based on plaintiff's allegations Reeder and Berkley did not (1) speak to him, (2) get a statement from the victim, (3) get a medical report of the assault, (4) get an incident report of the assault, (5) get more statements from the "one hundred inmates" who must have been in the gym, or (6) review the two gym cameras. We disagree.

¶ 30

Section 504.30 of title 20 of the Illinois Administrative Code (20 Ill. Adm. Code 504.30, amended at 27 Ill. Reg. 6214 (eff. May 1, 2003)) requires a DOC employee who receives information of an inmate offense from a reliable witness to promptly prepare a disciplinary report which provides the name and number of the offender; the place, time, and date of the offense; the offense alleged to have been committed; a written statement of the conduct observed; the names of persons who witnessed the offense, whose identities may be withheld for security purposes; and the signature of the reporting employee along with the date and time the

report was completed. Nothing in the rules required Reeder to interview plaintiff, provide a victim statement, a medical report or an incident report, or to gather more statements from other inmates.

¶ 31 Subsections 504.50(a) through (c) of title 20 of the Illinois Administrative Code (20 Ill. Adm. Code 504.50(a)-(c), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003)) sets forth procedures for offenders who have been placed in temporary confinement on investigative status. When an offender receives an "investigative report," the offender is to be interviewed by the reviewing officer to permit the offender an opportunity to present his views regarding placement in investigative status. That interview shall occur within 14 days after initial placement in investigative status. Section 504.50(d) (20 Ill. Adm. Code 504.50(d), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003)) requires the reviewing officer to review each "disciplinary report" to make certain determinations about the contents of the report and whether a disciplinary hearing is required.

¶ 32 In *Durbin v. Gilmore*, 307 Ill. App. 3d 337, 338, 718 N.E.2d 292, 293 (1999), the plaintiff in a *mandamus* action argued his due-process rights were violated when the defendants violated DOC rules in a disciplinary proceeding by failing, among other things, to have him interviewed by the reviewing officer and to ensure a hearing officer properly investigated the major disciplinary report. This court found as follows:

"In the context of the DOC rules, we interpret Title 20, section 504.50(c), to require the reviewing officer to interview an inmate after an investigative report is issued and while it remains pending. To interpret the rule as did the trial court would require

such an interview even if the investigative report is expunged and no further action is contemplated against the inmate. That would be an absurd result. It is also clear from the rules that a disciplinary report may issue without an investigative report having first been issued when an employee observes, rather than suspects, the committed person committing an offense, discovers evidence of its commission, or receives information from a reliable witness of such conduct. 20 Ill. Adm. Code § 504.30(b) (1999). Had a disciplinary report been initially filed in this case against plaintiff instead of an investigative report, section 504.50(c) would not have required that a reviewing officer interview plaintiff. It is clear from the rules that a disciplinary report is the basis for actions by the adjustment committee, and if the reviewing officer determines that an adjustment committee hearing is appropriate, then a disciplinary report is issued. ***

Moreover, nothing in the rules suggests that the purpose of the interview by the reviewing officer is to gather information and identify witnesses with regard to the case against the inmate or for his defense." *Id.* at 342-43, 718 N.E.2d at 296.

¶ 33 Here no investigative report was issued. Rather, Reeder prepared a disciplinary report. Therefore, nothing required Berkley to interview plaintiff. Nor did the rules require Berkley to conduct his own independent investigation into the incident or into plaintiff's defense.

¶ 34 *2. The Adjustment Committee Hearing*

¶ 35 On appeal, plaintiff argues the procedures used by the adjustment committee during his disciplinary hearing violated his due-process rights. We disagree.

¶ 36 "Illinois inmates have a statutory right to receive good-conduct credits, and thus they have a liberty interest entitling them to procedural safeguards under the due-process clause of the fourteenth amendment." *Lucas v. Taylor*, 349 Ill. App. 3d 995, 1000, 812 N.E.2d 72, 76 (2004). However, the full array of rights due to a defendant in a criminal prosecution does not apply to an individual subject to a prison disciplinary proceeding. *Wolff v. McDonnell*, 418 U.S. 539, 556 (1974). Instead, the process required in prison disciplinary proceedings includes the following: (1) notice of the charges at least 24 hours prior to the hearing, (2) an opportunity to call witnesses and present documentary evidence when consistent with institutional safety and correctional goals, and (3) a written statement by the fact finder of the evidence upon which it relied and the reasons for the disciplinary action. *Id.* at 563-66. In addition, the findings must be supported by some evidence in the record. *Superintendent, Massachusetts Correctional Institution, Walpole v. Hill*, 472 U.S. 445, 454-55 (1985).

¶ 37 a. Notice of the Hearing

¶ 38 In this case, the record shows plaintiff was served with the disciplinary report at 8:25 a.m. on May 20, 2011. He signed on the appropriate line of the report indicating he waived the 24-hour notice of changes prior to the disciplinary hearing. The disciplinary hearing commenced at 10:17 a.m. that same day. Plaintiff makes no claim he received insufficient notice.

¶ 39 b. Plaintiff Appeared at the Disciplinary Hearing

¶ 40 The final summary report contained in the record indicated plaintiff personally appeared at the disciplinary hearing, gave testimony, and pleaded not guilty. Plaintiff makes no claim he was denied his right to appear at the disciplinary hearing.

¶ 41 c. Witnesses at the Adjustment Committee Hearing

¶ 42 On appeal, plaintiff argues he was entitled to *certiorari* relief because his due-process rights were violated when his requested witnesses were not called at the adjustment committee hearing.

¶ 43 "Department rules specify that inmates may request that a witness be interviewed, by making a request in writing on the space at the bottom of the disciplinary report before the disciplinary hearing." *Taylor v. Frey*, 406 Ill. App. 3d 1112, 1118, 942 N.E.2d 758, 764 (2011); see also 20 Ill. Adm. Code 504.80(f)(2), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). Prison disciplinary boards may refuse witness requests that fail to comply with the prison facility's procedures for requesting witnesses. See *Newsome v. Illinois Prisoner Review Board*, 333 Ill. App. 3d 917, 921, 776 N.E.2d 325, 328 (2002) (prison adjustment committee had discretion to refuse to interview three inmate witnesses who allegedly observed the incident underlying disciplinary charges against an inmate, where the inmate did not make a proper written request for witnesses to be interviewed and did not identify witnesses or the expected content of their testimony).

¶ 44 Here, the final summary report indicated plaintiff did not request witnesses. Further, upon remand, Quigley advised the administrative review board plaintiff "was given every opportunity to provide witnesses; he never marked any witnesses on the white copy when [the] ticket was served or brought the bottom of the yellow copy when the ticket was heard. Had

witnesses been requested [,] they would have been interviewed, however[,] they were neither requested nor provided." Moreover, the disciplinary report included a space at the bottom of page one for plaintiff to write the names of any witnesses he wanted the adjustment committee to call on his behalf and the expected content of their testimony. That portion of the report is to be detached and returned to the adjustment committee prior to the hearing. However, it is intact.

¶ 45 When defendants filed their combined motion to dismiss and to quash, they attached, among others documents, an affidavit of the acting records office supervisor at Pontiac. He stated the records office at Pontiac maintains, updates, and stores the master files of inmates currently incarcerated at the facility. He also stated records regarding disciplinary reports and adjustment committee summary reports are maintained in the offender's master file, copies are located in the offender's master file, and an offender's master file is located at the offender's current place of incarceration. In this case, plaintiff was incarcerated at Pontiac at the time of the trial court proceedings. The affidavit indicated attached to it was a copy of the disciplinary report for plaintiff located in his master file at Pontiac.

¶ 46 The print and margins of both pages of defendants' copy of the disciplinary report are the same size. The first page shows the bottom section of the form intact where the plaintiff should have identified witnesses and the nature of their testimony, detached it, and returned it to the adjustment committee prior to the hearing.

¶ 47 Plaintiff attached a copy of the disciplinary report to his petition for writ of *certiorari*. Plaintiff's first page has been copied in such a way that the print is much larger and the margins much narrower than the second page (which is the same size as the second page defendants provided). The bottom tear-off section does not appear at the bottom of the first page

of plaintiff's copy. This court is unable to determine why plaintiff's first page is so different. Clearly, plaintiff's copy is not an accurate copy of the original disciplinary report and we question whether plaintiff has intentionally tried to mislead this court and the trial court.

¶ 48 The final summary report indicates no witnesses were requested, and Quigley maintains no witnesses were requested. Plaintiff has offered no explanation for this discrepancy except to say the adjustment committee was biased against him and acted arbitrarily. As it appears plaintiff failed to follow DOC rules in requesting witnesses, and as it is a matter of discretion on the part of the adjustment committee to deny a witness request, plaintiff has not shown he is entitled to *certiorari* relief on this issue.

¶ 49 d. Plaintiff Received a Written Summary that Complied with Due Process

¶ 50 On appeal, plaintiff also argues he did not receive a copy of the adjustment committee's written summary of the disciplinary hearing and the summary did not comply with due process because its bases were "conclusory" and did not explain why the adjustment committee relied on some evidence and ignored other evidence.

¶ 51 i. *Plaintiff Was Served With the Written Summary*

¶ 52 To prove he was not served, plaintiff has attached as an exhibit to his various filings a copy of the adjustment committee's final summary report with a "run date" of June 20, 2011, that does not reflect any signatures. On the exhibit, plaintiff has handwritten "Copy for Disciplinary Tracking." The copy of the report plaintiff is relying on appears to be an electronic version, not the actual report.

¶ 53 Defendants also provided a copy of the final summary report, which was attached to the affidavit of the acting records office supervisor at Pontiac and was located in plaintiff's

master file at Pontiac. This final summary report has a "run date" of May 23, 2011, at 10:06:15. It reflects the signatures of Quigley and Marvin dated May 20, 2011, and the signature of Martin dated May 23, 2011. It also reflects the signature of "S. Cagle," who is identified as the "Employee Serving Copy to Committed Person," with a date stamp of May 23, 2011. Therefore, the record clearly shows plaintiff was served with a copy of the final summary report on May 23, 2011.

¶ 54 *ii. The Summary Satisfied Due-Process Requirements*

¶ 55 Due process requires that an inmate receive a written summary by the fact finder setting forth the evidence relied upon and the reasons for the disciplinary action. *Wolff*, 418 U.S. at 565. "[T]o satisfy minimum due[-]process requirements, a statement of reasons should be sufficient to enable a reviewing body to determine whether good-time credit has been revoked for an impermissible reason or for no reason at all. While detailed findings are not required, something beyond mere conclusory statements is required." (Emphases omitted.) *Thompson v. Lane*, 194 Ill. App. 3d 855, 864, 551 N.E.2d 731, 737 (1990).

¶ 56 Here, the adjustment committee summary satisfied these requirements. The summary reflected plaintiff's own testimony as well as the disciplinary report prepared by Reeder. The summary explained the disciplinary report was the result of an investigation by the intelligence unit and based upon information received from four confidential informants. It detailed each confidential informant's statement. These statements corroborated each other. The summary further stated the adjustment committee had contacted Reeder, who stated (1) the disciplinary report was correct as written, (2) the confidential informants' statements were valid, and (3) the informants had been resourceful and reliable in the past. These bases are not merely

conclusory. They show the evidentiary bases and reasons for the adjustment committee's decision finding plaintiff guilty of the charged offenses.

¶ 57 Plaintiff also argues the summary was inadequate because it did not state the reason the adjustment committee relied on some evidence and not on other evidence, particularly plaintiff's work-activity sheet for the week of Sunday through Thursday, May 15-19, 2011, purportedly showing he was not scheduled to work in the gym on Fridays. Nothing in the record indicates the adjustment committee received the activity sheet.

¶ 58 *3. Evidence Supporting the Adjustment Committee Decision*

¶ 59 Plaintiff argues his due-process rights were violated because the evidence was insufficient to find him guilty. We disagree.

¶ 60 To find an inmate guilty of a charged offense, the adjustment committee "must be reasonably satisfied there is some evidence that the offender committed the offense." 20 Ill. Adm. Code 504.80(j)(1), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). A disciplinary report alone provides "some evidence" for the disciplinary decision where the report describes the incident in sufficient detail. *McPherson v. McBride*, 188 F.3d 784, 786 (1999).

¶ 61 According to the final summary report, plaintiff admitted he was with the Simon City Royals but had never been a leader in the gang. He stated Vasquez and Currier were also with the same gang. Plaintiff stated he did not associate with homosexuals. He stated he had a prison job as LTS porter for the 3-11 shift and was working in the gym as the LTS porter on May 6, 2011. He denied ordering a "hit" on Currier. He indicated he had a great relationship with Currier, but he would have a problem with Currier if he was associating with homosexuals. Plaintiff then admitted he did have "juice" with the gang, indicating he did not want to say so at

first because he knew they were "going to try to pin this hit on me." He stated he could have done it himself and would have tried to break Currier's jaw. In addition, the adjustment committee had the disciplinary report of Reeder indicating four confidential informants implicated plaintiff in the "hit" on Currier. Reeder testified "his IDR was correct as written and the c/i's used in the investigation have been resourceful and reliable in the past. C/o Reeder testified to the validity of each of the c/i's testimonies."

¶ 62 On appeal, plaintiff maintains the adjustment committee "falsified the oral statement given by plaintiff" at the disciplinary hearing and the "undisputed" evidence established he was not in the gym on Friday, May 6, 2011. He maintains he gave the administrative committee a copy of his activity sheet for Sunday through Thursday, May 15-19, 2011, and he attached to his *certiorari* complaint activity sheets purporting to show he worked Sunday through Thursday, February 27, 2011, to March 3, 2011, and Sunday through Thursday, March 6-10, 2011. However, these documents fail to prove plaintiff did not work in the gym on Friday, May 6, 2011. Nor does plaintiff explain why he did not produce his activity sheet for the week in question when he clearly had copies of other activity sheets in his possession.

¶ 63 The undisputed evidence in the record is four confidential informants stated plaintiff was (1) in the gym on May 6, 2011, and plaintiff admitted he worked in the gym on May 6, 2011; and (2) the leader of the Simon City Royals at Shawnee, and plaintiff admitted he was in the Simon City Royals and had "juice" with that gang. The only disputed evidence in the record before us is whether plaintiff ordered the "hit" on Currier; the confidential informants say he did and plaintiff denies it. This constituted "some evidence" of plaintiff's guilt.

¶ 64 Plaintiff also argues the fact no victim came forward to give a statement, no

medical record of the assault exists, and no incident report was written about the assault on May 6, 2011, exonerates him. The victim in this case, Currier, was in the same gang as plaintiff and Vasquez. Currier had already suffered at the hands of plaintiff and Vasquez for allegedly talking to homosexuals. According to one confidential informant, Currier did not suffer any serious injury from the punches, just redness on his face. Under these circumstances, it is understandable why Currier did not file a complaint against the very people who had assaulted him or seek medical attention. The absence of such evidence does not exonerate plaintiff. Moreover, we note the disciplinary report indicated additional information was on file with the intelligence unit at Shawnee but it was too sensitive to include in the disciplinary report.

¶ 65 Plaintiff also argues the fact the confidential informants did not come forward for 12 days calls their version of the incident into question. The time lapse does not make their statements less true. Again, this is not exoneration.

¶ 66 In determining if the "some evidence" standard has been satisfied, we are not required to conduct an examination of the entire record, independently assess witness credibility, or weigh the evidence, but only to determine whether the disciplinary decision has " 'some factual basis.' " *McPherson*, 188 F.3d at 786. Based on the record before us, some factual basis supports the finding of guilt.

¶ 67 *C. Mandamus*

¶ 68 "An allegation of a due-process-rights violation *** states a cause of action in *mandamus*." *Dye v. Pierce*, 369 Ill. App. 3d 683, 687, 868 N.E.2d 293, 296 (2006). "*Mandamus* is an extraordinary remedy traditionally used to compel a public official to perform a ministerial duty." *People ex rel. Madigan v. Snyder*, 208 Ill. 2d 457, 464, 804 N.E.2d 546, 552 (2004). A

petition for *mandamus* will be granted " 'only if a plaintiff establishes a clear, affirmative right to relief, a clear duty of the public official to act, and a clear authority in the public official to comply with the writ.' " *Hadley v. Montes*, 379 Ill. App. 3d 405, 407, 883 N.E.2d 703, 705 (2008) (quoting *People ex rel. Ryan v. Roe*, 201 Ill. 2d 552, 555, 778 N.E.2d 701, 703 (2002)). The plaintiff bears the burden of demonstrating a clear, legal right to the requested relief and must set forth every material fact necessary to prove he is entitled to a writ of *mandamus*. *Lucas*, 349 Ill. App. 3d at 998, 812 N.E.2d at 75.

¶ 69 Here, plaintiff did not allege facts showing his disciplinary proceeding violated his due-process rights. Because plaintiff received the process he was due, he failed to state a cause of action entitling him to *mandamus* relief.

¶ 70 III. CONCLUSION

¶ 71 For the reasons stated, we affirm the trial court's judgment.

¶ 72 Affirmed.