

NOTICE

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2014 IL App (4th) 130434-U

NO. 4-13-0434

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

July 28, 2014
Carla Bender
4th District Appellate
Court, IL

JAMES DOLIS,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Livingston County
RANDY PFISTER, Warden, Pontiac Correctional Center;)	No. 11MR96
SHERRY BENTON; and SALVADOR GODINEZ,)	
Director of the Department of Corrections,)	Honorable
Defendants-Appellees.)	Mark A. Fellheimer,
)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Presiding Justice Appleton and Justice Holder White concurred in the judgment.

ORDER

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

¶ 2 Plaintiff, James Dolis, an inmate at Pontiac Correctional Center, appeals from the trial court's dismissal of his *mandamus* petition, arguing, *inter alia*, defendants, employees of the Department of Corrections (DOC), violated DOC regulations and deprived him of procedural due process. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On February 16, 2011, while an inmate at Centralia Correctional Center (Centralia), plaintiff was placed under investigative status. On February 25, 2011, while in investigative status, plaintiff filed a grievance alleging:

"I have been in [segregation] since 2/16/11. I was only out of [segregation] for 2 days[,] being released Mon.[,] 2/14/11[,] after 35 days. I was told today[,] 2/25/11[,] in front of [Correctional Officer] Nelson and my cellmate Henderson B78428 by Lt. McAbee of Intel Unit that I am placed in [segregation] confinement pending investigation for my letter which was actually a motion sent to the 7th Circuit Court of Appeals for filing. Lt. McAbee said I sent a threatening letter and this is why I am being investigated. I was already written an [institutional disciplinary report] for this and did 31 days [of segregation] and had 31 days [of good-conduct credit] taken and received 1 ***."

(The remainder of the summary is missing and apparently on an additional page.)

¶ 5 Plaintiff was released from investigative status on March 8, 2011, without any charges against him.

¶ 6 On April 10, 2011, plaintiff was served with a disciplinary report prepared by Lieutenant McAbee. The report charged plaintiff with "intimidation or threat" based on the following observation:

"On the above date and approximate time[,] this Intel Lieutenant substantiates that [inmate] James Dolis R42411 did threaten the Driver Services Department of the Secretary of State. On 12/20/2010[,] the Driver[] Services Department received a letter signed by [inmate] Dolis concerning the reinstatement of his

license. The letter is signed James Dolis, and states, 'Failure to provide this will not only disrupt judicial proceedings/obstruct justice, it could result in loss of life killing several people easily.'

This Intel Lieutenant interviewed [inmate] Dolis on 4/10/11[,] and he admitted writing the letter and mailing it to the [Driver Services Department]. [Inmate] Dolis was identified by his Inmate Identification Card."

¶ 7 On April 15, 2011, a two-person adjustment committee, comprised of Lieutenant Pitts and Correctional Officer Burton, held a disciplinary hearing. Inmate Henderson appeared as a witness on behalf of plaintiff and stated "the Lt. did tell Dolis R42411 that he was in [segregation] for the threatening letter." According to the record of proceedings, Pitts read the charges to plaintiff, who pleaded not guilty and stated "he was talking about his mother, daughter, and himself about dying." The basis for the decision stated:

"Staff report inmate Dolis A93171 did make threatening comments in a letter addressed to Jesse White[,] Secretary of State/Driver [S]ervices Dept. On the above date and approximate time this Intel Lieutenant substantiates that [inmate] James Dolis R42411 did threaten the Driver Services Department of the Secretary of State[']s Office. On 12/20/2010[,] the Driver[] Services Department received a letter signed by [inmate] Dolis concerning the reinstatement of his license. The letter is signed James Dolis, and states, 'Failure to provide this will not only

disrupt judicial proceedings/obstruct justice, it could result in loss of life killing several people easily.' This Intel Lieutenant interviewed [inmate] Dolis on 4/10/11[,] and he admitted writing the letter and mailing it to the [Driver Services Department]. [Inmate] Dolis was identified by his Inmate Identification Card.

This is inmate Dolis['s] 2nd time of making threatening comments to outside agencies.

Guilty of 206 for making threatening comments to outside agencies.

Given 6 months [of segregation,] 6 months['] C grade[,] 6 months loss [good-conduct credit,] and [disciplinary] transfer."

The adjustment committee found plaintiff guilty of the charged offense. Based on the "seriousness of the offense," the adjustment committee recommended the following discipline: demotion to C-grade status for six months, six months' segregation, revocation of six months' good-conduct credit, and a disciplinary transfer.

¶ 8 On April 18, 2011, the following response to plaintiff's February 25, 2011, grievance was given:

"Per Intel Lieutenant McAbee, he stated that this segregation placement was for a second letter that [inmate] Dolis R42411 mailed. The second letter was mailed to Jesse White concerning Dolis['s] driver['s] license being reinstated. The letter contained statements which could be considered as threats. The

letter was redirected to the Illinois [Secretary] of State who sent it to [DOC] as threatening mail."

¶ 9 The record contains a July 25, 2011, response by defendant, Sherry Benton, representing the Administrative Review Committee, to a May 28, 2011, grievance plaintiff brought, which is not a part of the record before us. The response stated:

"This office has reviewed your written grievance dated May 28, 2011[,] regarding the above[-]issued disciplinary report and claims the report was written and served beyond timeframes
***.

This office reviewed the disciplinary report written on April 10, 2011[,] by Lt. McAbee citing you for the offense of 206– Intimidation or Threats, along with the corresponding [a]djustment [c]ommittee [s]ummary (201101718/1-CEN). This office notes that the Prisoner Review Board denied revoking any of the requested revocation.

Based on a total review of all available information and a compliance check of the procedural due[-]process safeguards outlined in [Department Rule] 504, this office is reasonably satisfied the offender committed the offense and recommends the grievance be denied. Per contact with [r]eporting [s]taff, they were aware of this letter April 10, 2011. Department Rule 504 states in part, that an incident's timeframe starts[] on the date when it is

known and/or discovered. Claims of due[-]process violations are not substantiated."

Defendant, Salvador Godinez, as Director of DOC, concurred.

¶ 10 In August 2011, plaintiff was advised internal affairs at Centralia clarified the time he had spent in investigative status from February 16, 2011, to March 8, 2011, was for the April 11, 2011, disciplinary report. The 21 days he served in investigative status was credited against the segregation time imposed as discipline for the offense proved in April 2011.

¶ 11 On September 27, 2011, plaintiff *pro se* filed a *mandamus* petition, alleging, *inter alia*, issuance of the April 10, 2011, disciplinary report and the subsequent hearing violated sections 504.30(f) and 504.80(a) of DOC's regulations. 20 Ill. Adm. Code 504.30(f), 504.80(a), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). More specifically, plaintiff alleged (1) under section 504.30(f), DOC was mandatorily required to serve the disciplinary report within 8 days after the offense was committed or discovered; and (2) under section 504.80(a), the adjustment committee was mandatorily required to convene a hearing within 14 days after the offense was committed or discovered, with the date of "discovery" deemed to be the last day of DOC's investigation into the occurrence. Plaintiff argued DOC's investigation concluded on March 8, 2011, the day he was released from segregation with no charges filed. Therefore, plaintiff maintained the disciplinary report and subsequent hearing were time-barred, occurring 34 and 39 days, respectively, after discovery of the offense. Plaintiff sought (1) expungement of his violation, (2) immediate release from segregation, (3) assignment to A-grade status, (4) back pay for his time in segregation, (5) return to a level-four facility, (6) restoration of good-conduct credit, and (7) the costs of his *mandamus* proceedings plus \$500 for attorney fees.

¶ 12 On September 27, 2011, plaintiff *pro se* filed two "addenda" to his *mandamus* petition. In the first, he added Benton and Godinez as defendants. In the second, he alleged additional bases for *mandamus*, including (1) the adjustment committee violated section 504.80(e) of DOC's regulations (20 Ill. Adm. Code 504.80(e), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003)) when it refused to provide a copy of the allegedly threatening letter or allow him a continuance of the disciplinary hearing so he could retrieve several letters from the Secretary of State, Driver Services Department, which would "further establish his innocence by proving he had absolutely no motive to threaten"; (2) DOC never produced a copy of the envelope to verify the mailing; (3) the disciplinary report was written in an intentionally deceptive and misleading way when describing the letter's contents; (4) McAbee lied because plaintiff never admitted mailing the letter, only writing it; (5) the letter was actually faxed to DOC at Marion Correctional Center in December 2010, thereby giving DOC knowledge of the letter even further in advance of the April 2011 disciplinary report; (6) the adjustment committee violated section 504.80(1)(2) of DOC regulations (20 Ill. Adm. Code 504.80(1)(2), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003)) by issuing a decision which neither stated the reasons for finding him guilty nor the basis for disregarding his allegedly exonerating evidence; and (7) the adjustment committee was improperly constituted because (a) one of the members (Pitts) had previously argued with plaintiff about his unwillingness to be celled with "black" inmates and (b) it was comprised of only two members, rather than the three purportedly required by law.

¶ 13 On December 28, 2011, and January 12, 2012, respectively, Godinez and Pfister filed nearly identical motions to dismiss and supporting memoranda, pursuant to section 2-615 of the Code of Civil Procedure (Procedure Code) (735 ILCS 5/2-615 (West 2012)). They argued

plaintiff failed to state a cause of action or to provide sufficient allegations to support a right to *mandamus* relief. Each argued (1) DOC regulations were never intended to confer rights on inmates; (2) *mandamus* requires a "clear right" to relief and, therefore, prison regulations cannot form the basis for an action seeking a writ of *mandamus*; and (3) although plaintiff theoretically could seek *mandamus* had he been denied due process, his petition failed to allege any facts indicating a deprivation of his constitutional rights.

¶ 14 On January 20, 2012, plaintiff *pro se* filed a response to the motions to dismiss, basically reiterating the arguments in his *mandamus* petition and addenda. On February 6, 2012, Godinez and Pfister replied, arguing (1) the adjustment committee provided specific bases for its decision beyond reiterating McAbee's disciplinary report; (2) under the provisions of section 504.70(a) of the Illinois Administrative Code (Administrative Code) (20 Ill. Adm. Code 504.70(a), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003)), the adjustment committee is to be comprised of two members; (3) plaintiff was afforded the due process required at adjustment committee hearings; and (4) plaintiff cannot rely on prison regulations to establish rights or a basis for *mandamus*.

¶ 15 On February 6, 2012, plaintiff *pro se* filed a supplemental response to defendants' motions to dismiss. He reiterated his argument the disciplinary proceedings were time-barred and also argued no evidence existed upon which the adjustment committee could have based its finding of guilt.

¶ 16 Because Benton was not served until July 2012, she did not file a section 2-615 motion to dismiss until September 14, 2012. Her motion was essentially identical to Godinez's and Pfisters' motions to dismiss. On February 12, 2013, plaintiff *pro se* responded to Benton's

motion to dismiss, basically reiterating his previous arguments. Additionally, plaintiff equated violation of DOC's regulations with violating a defendant's right to a speedy trial (725 ILCS 5/103-5 (West 2012)). In his prayer for relief, plaintiff stated:

"Wherefore, plaintiff requests this honorable court grant *mandamus* relief and make clear to defendants the law applies to all and the law is this court's highest obligation[,] and failure to grant relief will promote defendant's [*sic*] disrespect for the law and be a rubber stamp of approval for the defendant's [*sic*] to continue to violate the law willy nilly any time they want. In a prison[,] such disregard could also promote violence and quite possibly deadly repercussions—not from this plaintiff but generally speaking."

¶ 17 On March 12, 2013, the trial court entered an order granting defendants' motions to dismiss. The court found *mandamus* was not appropriate because (1) plaintiff's due-process rights had not been violated since he had been given a hearing and the right to make a statement; (2) restoration of good-time credit is a completely discretionary act afforded to Godinez as Director of DOC; (3) the disciplinary report prepared by McAbee dated April 10, 2011, was "consistent with the facts that Lt. McAbee obtained plaintiff's confession to this threatening letter to the Illinois Secretary of State on April 10, 2011"; and (4) the fact plaintiff had been placed in segregation prior to that time was "inconsequential as this is an issue left to the discretion of the Director."

¶ 18 Plaintiff filed a motion to reconsider in which he stated, "This court's approval of

defendant's [*sic*] violating their own non[-]discretionary rule will eventually result in violence and and [*sic*] quite possibly deaths and promote such actions." The court denied the motion to reconsider.

¶ 19 This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 On appeal, plaintiff argues the trial court erred in dismissing his complaint for *mandamus* relief. We disagree and affirm.

¶ 22 A motion to dismiss under section 2-615 of the Procedure 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 a dismissal pursuant to section 2-615 *de novo* (*Thurman v. Champaign Park District*, 2011 IL App (4th) 101024, ¶ 7, 960 N.E.2d 18) and may affirm on any ground supported by the record (*Khan v. BDO Seidman, LLP*, 408 Ill. App. 3d 564, 578, 948 N.E.2d 132, 145 (2011)).

¶ 23 Regarding *mandamus* actions, this court has stated the following:

" ' *Mandamus* relief is an extraordinary remedy to enforce,

as a matter of right, the performance of official duties by a public official where the official is not exercising discretion. A court will not grant a writ of *mandamus* unless the petitioner can demonstrate a clear, affirmative right to relief, a clear duty of the official to act, and clear authority in the official to comply with the writ. The writ will not lie when its effect is to substitute the court's judgment or discretion for the official's judgment or discretion. *Mandamus* relief, therefore, is not appropriate to regulate a course of official conduct or to enforce the performance of official duties generally.' " *Dye v. Pierce*, 369 Ill. App. 3d 683, 686-87, 868 N.E.2d 293, 296 (2006) (quoting *Hatch v. Szymanski*, 325 Ill. App. 3d 736, 739, 759 N.E.2d 585, 588 (2001)).

Moreover, "[a]n allegation of a due-process-rights violation also states a cause of action in *mandamus*." *Dye*, 369 Ill. App. 3d at 687, 868 N.E.2d at 296.

¶ 24 A. Compliance With DOC Regulations

¶ 25 On appeal, plaintiff first argues DOC regulations are mandatory, not discretionary, and, therefore, *mandamus* was the appropriate means to compel defendants to follow those rules to the letter. However, prison regulations, such as those found in the Administrative Code, were " 'never intended to confer rights on inmates or serve as a basis for constitutional claims.' " (Emphasis in original.) *Dupree v. Hardy*, 2011 IL App (4th) 100351, ¶ 25, 960 N.E.2d 1 (quoting *Ashley v. Snyder*, 316 Ill. App. 3d 1252, 1258, 739 N.E.2d 897, 902 (2000)). Instead, such regulations " 'were designed to provide guidance to prison officials in the

administration of prisons.' " *Dupree*, 2011 IL App (4th) 100351, ¶ 25, 960 N.E.2d 1 (quoting *Ashley*, 316 Ill. App. 3d at 1258, 739 N.E.2d at 902). Thus, a violation of a state administrative regulation does not amount to an infringement of plaintiff's constitutional rights. See *Ashley*, 316 Ill. App. 3d at 1258-59, 739 N.E.2d at 902-03. Constitutionally, plaintiff is entitled to a certain amount of due process, which we discuss below.

¶ 26 Moreover, defendants complied with the regulations. Under title 20, section 504.40(a), of the Administrative Code, a shift supervisor may "place the offender in investigative status *** pending a disciplinary hearing or a determination whether or not to issue a disciplinary or investigatory report in accordance with [s]ection 504.30." 20 Ill. Adm. Code 504.40(a), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). An adult offender may be detained in investigative status for up to 30 days. 20 Ill. Adm. Code 504.50(c)(3), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). An investigative report may be issued when an offender is suspected of committing a disciplinary offense. 20 Ill. Adm. Code 504.30(e), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). If the investigation does not indicate the offender may be guilty of any disciplinary offense, the offender's placement in investigative status must be terminated. 20 Ill. Adm. Code 504.50(c)(4), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003).

¶ 27 In the case *sub judice*, plaintiff was placed in investigative status on February 16, 2011. The record is devoid of any indication an investigative report was written, but none is required. Plaintiff was released on March 8, 2011, well within the 30-day limitation set forth in section 504.50(c)(3) of title 20 the Administrative Code. He was released from investigative status without any charges, again within the requirements of section 504.50(c)(4) of the Administrative Code. Nothing in title 20, section 504, of the Administrative Code precludes

DOC from continuing an investigation and later bringing charges against an inmate after he has been released from investigative status without charges. 20 Ill. Adm. Code 540.10 to 504.150, amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). Therefore, DOC did not violate its own regulations while plaintiff was in investigative status.

¶ 28 B. The Disciplinary Proceedings

¶ 29 On appeal, plaintiff also argues defendants violated his procedural due-process rights when they failed to follow DOC regulations by (1) serving him with the disciplinary report 34 days after the close of DOC's investigation when they were mandated to serve him no more than 8 days after the commission or discovery of the offense, in violation of section 504.30(f) of title 20 of the Administrative Code; (2) conducting the disciplinary hearing 39 days after the conclusion of the investigation when they were mandated to do so within 14 days, in violation of section 504.50(c) of title 20 of the Administrative Code; (3) failing to grant him a continuance to retrieve exonerating evidence, in violation of section 504.80(e), (f)(1), and (g) of title 20 of the Administrative Code; (4) failing to set forth a sufficient basis for its finding of guilt, in violation of section 504.80(l) of title 20 of the Administrative Code; (5) improperly finding him guilty based only on material contained in the disciplinary report, in violation of section 504.80(g) of title 20 of the Administrative Code; (6) inappropriately allowing McAbee to be present at and participate in the hearing, in violation of section 504.80(d) of title 20 of the Administrative Code; and (7) allowing Pitts to be on the adjustment committee despite plaintiff's objection Pitts was not impartial, in violation of section 504.80(d) of title 20 of the Administrative Code. 20 Ill. Adm. Code 504.30(f), 504.50(c), 504.80(d), (e), (f)(1), (g), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003).

¶ 30 Violation of state administrative regulations does not amount to an infringement of plaintiff's constitutional rights. See *Ashley*, 316 Ill. App. 3d at 1258-59, 739 N.E.2d at 902-03. "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. *Wolff*, 418 U.S. 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).

¶ 31 1. *Timeliness of Serving Plaintiff and Conducting the Hearing*

¶ 32 Title 20, section 504.30(f), of the Administrative Code provides, in pertinent part: "Service of a disciplinary report upon the offender shall commence the disciplinary proceeding. In no event shall a disciplinary report or investigative report be served upon an adult offender more than [eight] days *** after the commission of an offense or the discovery thereof unless the offender is unavailable or unable to participate in the proceeding." 20 Ill. Adm. Code 504.30(f), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003).

¶ 33 Under title 20, section 504.80(a), of the Administrative Code, the adjustment

committee is required to convene a disciplinary hearing "within 14 days after the commission of the offense *** or its discovery" and "an offense is considered to be discovered upon the conclusion of the investigation." 20 Ill. Adm. Code 504.80(a), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003).

¶ 34 In the case *sub judice*, the facts in the record do not indicate exactly when DOC officials "discovered" plaintiff had committed the offense at issue. This offense did not happen in the presence of a correctional officer where the exact time of its occurrence would have been obvious. Rather, plaintiff wrote and sent a letter to an outside agency. Plaintiff maintains in his September 2011 "Addendum to Support *Mandamus* Petition" DOC knew about the letter in December 2010, when it was faxed to "Intel in Marion, IL." The source of that allegation is not in the record. Even if the letter went to Marion Correctional Center in December 2010 how soon the information reached DOC personnel at Centralia, where plaintiff was housed at the time, is not known. In any event, nothing in the record explains why DOC was not able to substantiate the offense while plaintiff was in investigative status and that is of no consequence. As noted above, nothing in the Administrative Code precludes continuation of an investigation after an offender is released from investigative status.

¶ 35 In April 2011, Lieutenant McAbee was able to substantiate the charges after plaintiff admitted he had written and mailed the letter to the Secretary of State's office. In his *mandamus* filings, plaintiff denies he admitted having written or mailed the letter; however, the adjustment committee's final summary report reflects plaintiff appeared at the hearing where he did not deny sending the letter and, in fact, stated "he was talking about his mother, daughter, and himself about dying."

¶ 36 In any event, on April 10, 2011, Lieutenant McAbee filed the disciplinary report. Plaintiff was served with the disciplinary report that same date, well within the eight-day service requirement of section 504.30(f) of title 20 of the Administrative Code. This service started the clock for the 14-day timeframe within which the adjustment committee had to convene a hearing under section 504.80(a) of title 20 of the Administrative Code. That hearing was held just four days later, on April 15, 2011.

¶ 37 Further, Illinois courts have recognized the Seventh Circuit's decision in *United States ex rel. Houston v. Warden, Stateville Correctional Center*, 635 F.2d 656, 659 (1980), in which it held, "[a]lthough at some point a delay in informing [an inmate] of the charges against him might interfere with his right to marshal the facts and prepare his defense," a two-month delay does not constitute a denial of due process. See *Clayton-El v. Lane*, 203 Ill. App. 3d 895, 900, 561 N.E.2d 183, 186 (1990) (no denial of due-process due to a 35-day interval between the prison's alleged knowledge of the violation and commencement of disciplinary proceedings).

¶ 38 Therefore, plaintiff has failed to prove he was not afforded service of the disciplinary report and a disciplinary hearing within the time frames set forth in the Administrative Code. Moreover, plaintiff suffered no prejudice by being placed in investigative status. In August 2011, he was advised the 21 days he spent in investigative status had been credited against the segregation time imposed in the disciplinary proceedings. He also did not lose any good-conduct credit as a result of his placement in investigative status. And, in fact, it does not appear plaintiff lost any good-conduct credit as a result of the disciplinary proceedings, although recommended by the adjustment committee.

¶ 39 *2. Plaintiff Appeared at the Disciplinary Hearing*

¶ 40 The final summary report 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 3. *Plaintiff Presented a Witness at the Adjustment Committee Hearing*

¶ 42 The final summary report indicated plaintiff presented a witness on his behalf. He makes no claim he was denied the right to call witnesses.

¶ 43 4. *The Adjustment Committee Summary Satisfied Due-Process Requirements*

¶ 44 On appeal, plaintiff also argues the adjustment committee summary did not comply with due process because the adjustment committee merely repeated information from the disciplinary report.

¶ 45 Due process requires 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 564. "[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).

¶ 46 Here, the summary reflected (1) plaintiff's own testimony where he admitted having written and mailed the letter; (2) the testimony of plaintiff's own witness; (3) the contents of the disciplinary report prepared by McAbee stating the Driver Services Division of the Secretary of State's office had received a letter purportedly signed by plaintiff concerning the reinstatement of his driver's license, which stated, "Failure to provide this will not only disrupt

judicial proceedings/obstruct justice, it could result in the loss of life killing several people easily"; and (4) plaintiff had previously made threatening comments to outside agencies.

Therefore, the findings were not mere conclusory statements and were based on more than the mere contents of the disciplinary report. See *Cannon v. Quinley*, 351 Ill. App. 3d 1120, 1123-25, 1132, 815 N.E.2d 443, 446-47, 453 (2004) (adjustment committee decision (1) with this same level of detail; (2) which recited evidence contained in the disciplinary report; and (3) included other information, such as an inmate's previous offenses, passed constitutional muster).

¶ 47 *5. Denial of a Continuance of the Disciplinary Hearing*

¶ 48 Plaintiff also argues his due-process rights were violated when the adjustment committee refused to allow him a continuance of the disciplinary hearing to retrieve documents from his legal box in the library, which he alleged would prove he had no motive to threaten anyone.

¶ 49 The record of his adjustment committee hearing contains no evidence plaintiff requested a continuance. Even if he made such a request, plaintiff did not have a constitutional right to a continuance. Due process requires an inmate receive 24 hours' written notice of the charges he will face at his hearing. *Wolff*, 418 U.S. at 564. See also *Sweeney v. Parke*, 113 F.3d 716, 719 (1997) (plaintiff "was given twenty-four hours to plan his defense, and he was not entitled to more"). Plaintiff received four days' notice of the disciplinary hearing.

¶ 50 *6. Plaintiff's Remaining Claims of Due-Process Violations*

¶ 51 Plaintiff argues his due-process rights were violated when Lieutenant McAbee was allowed to be present at and participate in the disciplinary hearing because of his bias against plaintiff, in violation of title 20, section 504.80(d), of the Administrative Code (20 Ill.

Adm. Code, 504.80(d), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). However, section 504.80(d) states, in relevant part, "Any person who initiated the allegations that serve as the basis for the disciplinary report, or who conducted an investigation into those allegations, or who witnessed the incident, or who is otherwise not impartial *shall not serve on the Adjustment Committee hearing that disciplinary report.*" (Emphasis added.) 20 Ill. Adm. Code, 504.80(d), amended at 29 Ill. Reg. 6214 (eff. May 1, 2003). Lieutenant McAbee did not serve on the adjustment committee. He appeared at the hearing because he conducted the investigation and wrote the disciplinary report.

¶ 52 Further, plaintiff's reliance on section 3-8-7(e)(1) of the Unified Code of Corrections (730 ILCS 5/3-8-7(e)(1) (West 2012)), is misplaced. Section 3-8-7(e)(1) states, "[a]ny person or persons who initiate a disciplinary charge against a person shall not determine the disposition of the charge." 730 ILCS 5/3-8-7(e)(1) (West 2012). McAbee was not a member of the adjustment committee. Therefore, McAbee could not have determined the disposition of the charge against plaintiff.

¶ 53 Plaintiff also argues his objection to Pitts serving as a member of the adjustment committee because Pitts was not impartial went ignored, in violation of section 504.80(d) of title 20 of the Administrative Code. (20 Ill. Adm. Code, 504.80(d), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). Section 504.80(d) states, in pertinent part, "An offender who objects to a member of the Committee based on a lack of impartiality must raise the matter at the beginning of the hearing. The Committee shall document the basis of the objection and the decision of the Adjustment Committee summary." 20 Ill. Adm. Code, 504.80(d), amended at 27 Ill. Reg. 6214 (eff. May 1, 2003). No such objection is documented in the adjustment committee's summary

report.

¶ 54 Plaintiff has failed to prove these additional claims violated his due-process rights. Moreover, these remaining claims do not fall into the category of due-process protections required in prison disciplinary proceedings. See *Wolff*, 418 U.S. at 563-66.

¶ 55 III. CONCLUSION

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

¶ 57 Affirmed.