

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

IN THE MATTER OF THE
PERSONAL RESTRAINT OF:

D'MARCO LA'CALVIN MOBLEY,

Petitioner.

No. 85052-1-I

ORDER OF DISMISSAL

D'Marco La'Calvin Mobley has filed a personal restraint petition seeking relief from an infraction imposed by the Department of Corrections (DOC) while Mobley was an inmate at Coyote Ridge Corrections Center. DOC has filed a response, and Mobley has filed a reply. Mobley fails to establish an arguable basis for relief. His petition is frivolous and must be dismissed.

BACKGROUND

On December 15, 2022, Correctional Officer Raul Lopez observed Daniel Rinker leave the unit on a supposed call out, immediately return, and then turn around and leave again. Surveillance video showed that Rinker had walked to the pill line area and waited there until Mobley arrived. Mobley was seen placing something into Rinker's hand. Correctional officers searched Rinker's cell and found a green tied baggie and grid lined papers. The grid lined paper later tested positive for Spice paper.¹

¹ Spice paper is a paper that has been infused with synthetic cannabinoids. See DEP'T OF

Correctional officers also searched Mobley's cell and ordered him to undergo a urinalysis. Although no contraband was found in Mobley's cell, his urinalysis tested positive for THC (marijuana).

Mobley was issued infractions for introducing or transferring any unauthorized drug or drug paraphernalia, a violation of WAC 137-25-030 (603) and possessing, or receiving a positive test for use of, an unauthorized drug, alcohol, or intoxicating substance, a violation of WAC 137-25-030 (752). Mobley received notice of the infractions on December 22, 2022, and a hearing was conducted on December 27, 2022.

Mobley testified on his own behalf at the hearing. He also called Rinker as a witness. Both men testified that what Mobley had handed Rinker was a piece of paper with Rinker's aunt's e-mail address written on it. Mobley also testified that he was seen passing the paper to Rinker with his left hand because his right hand was injured at the time. However, surveillance video showed that Mobley immediately turned and shook the hand of another offender with his right hand. The hearing officer found that "it is more likely than not that the secretive hand off was also the discovered drugs."

Mobley was found guilty of both infractions and sanctioned therefor. Mobley appealed to the superintendent. The superintendent affirmed both sanctions.

Mobley filed a personal restraint petition challenging the 603 infraction only.

ANALYSIS

Review of a prison disciplinary proceeding is limited to determining whether the action taken was “so arbitrary and capricious as to deny the petitioner a fundamentally fair proceeding so as to work to the offender’s prejudice.” In re Pers. Restraint of Grantham, 168 Wn.2d 204, 216, 227 P.3d 285 (2010). Due process requires that an inmate facing disciplinary sanctions receive notice of the alleged violation, have an opportunity to present documentary evidence and call witnesses (when not unduly hazardous to institutional safety and correctional goals), and receive a written statement of the evidence relied upon and the reasons for the disciplinary action. In re Pers. Restraint of Gronquist, 138 Wn.2d 388, 396-97, 978 P.2d 1083 (1999). A disciplinary proceeding is not arbitrary and capricious if the inmate was afforded these minimum due process protections and the decision was supported by at least some evidence. In re Pers. Restraint of Krier, 108 Wn. App. 31, 38, 29 P.3d 720 (2001); see also Gronquist, 138 Wn.2d at 397 (“A prisoner enjoys more limited due process rights than a criminal defendant.”). Mobley fails to demonstrate that the disciplinary proceedings he challenges were arbitrary or capricious.

It is undisputed that Mobley received notice of the alleged infractions. It is also undisputed that Mobley had an opportunity to present evidence on his behalf, and to call witnesses to testify, including Daniel Rinker. The record includes the hearing officer’s list of evidence relied upon, which included the surveillance video, the search report and photographs for the items obtained from Rinker’s cell, the results of Mobley’s urinalysis, and the testimony of Mobley and Rinker. The

surveillance video, results of the search of Rinker's cell, and Mobley's urinalysis detecting the presence of THC constitute "some evidence" to support the hearing officer's determination that Mobley "introduce[ed] or transferr[ed] any unauthorized drug or drug paraphernalia."

Mobley nonetheless asserts that relief is warranted because both he and Rinker testified that Mobley handed Rinker a piece of paper with his aunt's e-mail address, not Spice paper. However, a determination of whether the "some evidence" standard has been satisfied "does not require examination of the entire record, independent assessment of the credibility of witnesses, or weighing of the evidence." In re Johnston, 109 Wn.2d 493, 497, 745 P.2d 864 (1987) (quoting Superintendent, Mass. Corr. Inst. v. Hill, 472 U.S. 445, 455-56, 86 L. Ed. 2d 356, 105 S. Ct. 2768 (1985)). Here, the hearing officer considered the testimony of Rinker and Mobley, but deemed them to not be credible after comparing their testimony to the video footage. Mobley fails to demonstrate that there was not some evidence to support the hearing officer's finding and thus does not demonstrate that the sanctions imposed on him were arbitrary and capricious.

CONCLUSION

Mobley fails to present an arguable basis for relief in law or fact given the constraints of a personal restraint petition. His petition is frivolous and must be dismissed. RAP 16.11(b) (frivolous petition will be dismissed); In re Pers. Restraint of Khan, 184 Wn.2d 679, 686-87, 363 P.3d 577 (2015) ("[A] personal restraint petition is frivolous where it fails to present an arguable basis for collateral relief either in law or fact, given the constraints of the personal restraint petition vehicle.").

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Now, therefore, it is hereby

ORDERED that the personal restraint petition is dismissed under
RAP 16.11(b).

A handwritten signature, appearing to be "H. S. A. J.", is written over a horizontal line.