

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

TORRENCE BELCHER,

Plaintiff,

v.

LINDSEY MILLIGAN, LYDIA BLOOM,
and K. READ,

Defendants.

244707
CF-2-235

CAUSE NO. 3:23CV650-PPS/MGG

OPINION AND ORDER

Torrence Belcher, a prisoner without a lawyer, filed an amended complaint alleging he has received three falsified conduct reports for sexual conduct. ECF 18. "A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quotation marks and citations omitted). Nevertheless, under 28 U.S.C. § 1915A, the court must review the merits of a prisoner complaint and dismiss it if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

Belcher alleges each of the defendants falsely accused him of sexual conduct at the prison. In each instance, he alleges he was found guilty during a prison disciplinary hearing and lost earned credit time. In *Edwards v. Balisok*, 520 U.S. 641 (1997), the United States Supreme Court made clear that the principles of *Heck v. Humphrey*, 512 U.S. 477,

UNITED STATES DISTRICT COURT
for the
Northern District of Indiana

TORRENCE BELCHER

Plaintiff

v.

Civil Action No. 3:23-cv-650

LINDSEY MILLIGAN, *Correctional Officer*

LYDIA BLOOM, *Correctional Officer*

K READ, *Mental Health Doctor*

Defendants

JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*):

the Plaintiff(s) _____ recover from the
Defendant(s) _____ damages in the
amount of _____, plus post-judgment interest at the rate of ____ %
 the plaintiff recover nothing, the action is dismissed on the merits, and the defendant
recover costs from the plaintiff _____

X Other: This case is DISMISSED WITHOUT PREJUDICE.

This action was (*check one*):

tried to a jury with Judge _____ presiding, and the jury has rendered a verdict.
 tried by Judge _____ without a jury and the above decision was reached.

X decided by Judge Philip P. Simon.

DATE: 12/1/2023

CHANDA J. BERTA, CLERK OF COURT
by s/N. Corle
Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

TORRENCE BELCHER,

Petitioner,

v.

CAUSE NO. 3:23-CV-1062-MGG

WARDEN,

Respondent.

ORDER

Torrence Belcher, a prisoner without a lawyer, filed a habeas corpus petition challenging a disciplinary decision (ISP-16-9-1) at the Indiana State Prison in which a disciplinary hearing officer (DHO) found him guilty of assaulting staff in violation of Indiana Department of Correction Offenses 117. Following a hearing, he was sanctioned with a loss of one hundred twenty days of earned credit time and a demotion in credit class.

Belcher argues that he is entitled to habeas relief because the correctional officer fabricated the conduct report. The court construes this argument as an argument that the administrative record lacked sufficient evidence to support the finding of guilt.

[T]he findings of a prison disciplinary board [need only] have the support of some evidence in the record. This is a lenient standard, requiring no more than a modicum of evidence. Even meager proof will suffice, so long as the record is not so devoid of evidence that the findings of the disciplinary board were without support or otherwise arbitrary. Although some evidence is not much, it still must point to the accused's guilt. It is not our province to assess the comparative weight of the evidence underlying the disciplinary board's decision.

There is no evidence to support a finding of guilt!!

Belcher argues that he is entitled to habeas relief because correctional staff denied his request for DNA testing on the correctional officer's pants. According to Belcher, they declined to conduct DNA testing because Belcher had not been formally charged in a criminal case. "[T]he inmate facing disciplinary proceedings should be allowed to call witnesses and present documentary evidence." *Wolff v. McDonnell*, 418 U.S. 539, 566 (1974). However, "[p]rison officials must have the necessary discretion to keep the hearing within reasonable limits and to refuse to call witnesses that may create a risk of reprisal or undermine authority, as well as to limit access to other inmates to collect statements or to compile other documentary evidence." *Id.* Additionally,

"[p]rison administrators are not obligated to create favorable evidence or produce evidence they do not have." *Manley v. Butts*, 699 F. App'x 574, 576 (7th Cir. 2017).

Because the DNA test results never existed, correctional staff were not required to produce them. Therefore, this claim is not a basis for habeas relief.

In the traverse, Belcher arguably raises claims regarding improper bias, lack of adequate notice, and failure to disclose material, exculpatory evidence. Raising additional grounds in this manner was improper. See Rule 2(c)(1) of the Rules

Governing Section 2254 Cases ("The petition must specify all the grounds for relief available to the petitioner."); *Jackson v. Duckworth*, 112 F.3d 878, 880 (7th Cir. 1997) ("[A] traverse is not the proper pleading to raise additional grounds."). Therefore, these claims are not a basis for habeas relief.

Further, these habeas claims would have failed on the merits even if they were properly raised. To start, Belcher identifies no specific basis as to why he believes that

She lied, And I didn't do what was alleged. And no evidence to support charges. She has to be binc

the hearing officer was biased other than adverse rulings. *See Thomas v. Reese, 787 F.3d*

845, 849 (7th Cir. 2015) ("Adverse rulings do not constitute evidence of judicial bias.").

And, contrary to his argument in the traverse, Belcher conceded having prior sexual misconduct-related disciplinary offenses on administrative appeal. ECF 11-6. Next, the conduct report adequately informed Belcher of the disciplinary offense and the underlying facts. ECF 11-1; *see Northern v. Hanks, 326 F.3d 909, 910 (7th Cir. 2003)* ("The notice should inform the inmate of the rule allegedly violated and summarize the facts underlying the charge."). Additionally, the video recording summary essentially amounts to inconclusive evidence and is neither material nor exculpatory. ECF 11-4.

Moreover, it is unclear how the disclosure of the video recording summary that was already in the administrative record would have changed the outcome of the disciplinary hearing. → This shows corrupt behavior.

Because Belcher has not asserted a valid claim for habeas relief, the habeas petition is denied. If Belcher wants to appeal this decision, he does not need a certificate of appealability because he is challenging a prison disciplinary proceeding. *See Evans v. Circuit Court, 569 F.3d 665, 666 (7th Cir. 2009)* However, he may not proceed in forma pauperis on appeal because the court finds pursuant to 28 U.S.C. § 1915(a)(3) that an appeal in this case could not be taken in good faith. *See Karp*

For these reasons, the court:

- (1) DENIES the habeas corpus petition (ECF 1);
- (2) DIRECTS the clerk to enter judgment and close this case; and
- (3) DENIES Torrence Belcher leave to proceed in forma pauperis on appeal.

SO ORDERED on May 15, 2024

s/ Michael G. Gotsch, Sr.

Michael G. Gotsch, Sr.

United States Magistrate Judge

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

“Circuit Rule 3(c) “Docketing Statement

TORRENCE BELCHER

No. 24-1935

Petitioner – Appellant

v.

RON NEAL,

Respondent – Appellee

Originating Case Information: District Court No: 3:23-cv-01062-MGG. Northern District of Indiana, South Bend Division. Magistrate Judge Michael G. Gotsch, Sr.

A copy of the envelope will be coming with this motion showing when I received this instructions for preparing the Docketing Statement.

Judgment in civil action (May 15, 2024). An objection was made on (May 23, 2024), that was construe as a motion to reconsider.

My actual motion to reconsider and or a motion to alter or amend the judgment was put it on (June 13, 2024)

Notice of Appeal was made on (May 23, 2024) this came with the objection mention above.

Dates consented to proceed before an Magistrate judge were (1/23/2024) and (02/01/2024) is the correct date filed in Document #8

This case relates to District court case, Belcher v. Milligan et al (3:23-cv-00650-PPS-MGG)

Diversity Jurisdiction

On August 31, 2016 the administrative record should show a conduct report fabricated by Lydia Bloom a former female correctional officer of Indiana state prison, where she pretended that I, Torrence Belcher, the petitioner, pro se, called her to his cell. She alleges that when she arrived she observed me fondling my penis and discharged either ejaculation or urine on her pants leg before she could move out of the way. The administrative record should include a photograph of Lydia Bloom, the correctional officer's pants leg with the discharged bodily fluid.

It includes a video recording summary in which the correctional officer, Lydia Bloom is seen stopping at the petitioner Belcher's cell. ECF 11-4. I, Torrence Belcher, the petitioner, pro se, is

Document 11-4
Document 11-1

The camera
shouldn't need
to see that
far into my
cell if i am at

the door calling her
over to my cell and jacking off at the door. if i am not at the door then how do she know
I called her and does she react to what i said

not sure because I haven't seen the video, but according to ECF 11-4 and ECF 15 it is not consistent with the summary. She never mentions escorting an inmate with as she stopped at my cell. It also includes, the petitioner's statement that the correctional officer fabricated the conduct report. **This is defamation of my character!** And Cruel and unusual punishment. This is deliberate indifference and retaliation for something I did in the past. This also violates my 6th amendments. J. ANTON the former female disciplinary hearing officer at the Indiana state prison found me, the petitioner guilty of A-117, assault on staff on September 7, 2016. She, J.ANTON is bias and made an arbitrary decision. (Exhibit C, document #11-3). She committed obstruction of justice when she gave an misleading statement about how and when DNA testing was appropriate, according to the policy in Document 11-8, Exhibit F pg. 3 of 13(02-04-101 Appendix 1: offenses) and Document 11-9, Exhibit G, pg.32 of 55. This withheld and made an unreasonable delay in the producing of evidence that I, Torrence Belcher, the petitioner, pro se, just recently found out **NEVER EXISTED**. According to Magistrate Judge Michael G. Gotsch in Document #25 page 3. In Document #25 page 2. Magistrate Judge Michael G. Gotsch made the statement that the photograph and video recording thus constitutes some evidence that, the petitioner Belcher, assaulted the correctional officer as charged. These are contradiction!! And argumentative but doesn't constitute merit to the question why was, I, Torrence Belcher, the petitioner, found guilty with no evidence to support these allegations. And is in conflict with the Rules of Evidence, Article IV. Rule 401. The photo is less probable without DNA testing and the video is not consistent with the summary and both becomes irrelevant evidence.

It is understandable that the correctional officer version is credited over my narrative but Rule 412(a) of the Rules of Evidence should be took into consideration. And the fact that I plead guilty to prior sexual conduct in the past. But stand firm in my innocence here when pertaining to this conduct report. Case number. **ISP 16-09-0001**. The fact that I am not an attorney should be keep in mind as well.

On July 5th, 2023, almost seven years later, I, the petitioner initiated a lawsuit against Bloom, and several other correctional officers and a mental health doctor. *See docket for 3:23-cv-00650-PPS-MGG*. The court dismissed the case without prejudice after concluding that the disciplinary convictions had not been invalidated. *See Dkt. 19 in No. 3:23-cv-00650-PPS-MGG*. On December 11, 2023. I, Torrence Belcher, pro se, filed my habeas petition. Three of my safeguards where step on when it comes to the due process clause. (v) NO EVIDENCE TO SUPPORT THE DECISION. (iii) DNA TESTING WAS DENIED! And (ii) SHE J.ANTON IS OBVIOUSLY BIAS FOR DOING SO. This was not a venial act! The conduct report should be consider **Unfairly Prejudicial Evidence** and the Magistrate Judges judgment should be seen as an **Advisory opinion**. Because it is her word vs. mine and has no evidence to support her allegations.

In document #25 page 3. Magistrate Judge Michael G. Gotsch argues that I raised new claims regarding improper bias, lack of adequate notice and failure to disclose material exculpatory evidence. These are not new claims but have been focus points in my petition to begin with. And if new information has been made aware to me, of recent then how could I have brought these new claims up of old. I bring up Exhibit C-1 from document 11-4 and

*new M.
if new claims
it is contain
SAC b/s
Xh b/s
JL*

Exhibit E for examples. The fact that the conduct report is kind of vague is not a new claim and is a purely argumentative statement. And how isn't the DHO bias when she frankly lied in Exhibit C of document 11-3??? When the petitioner asked for DNA testing. And my second appeal sent to the central office was never responded to. I figure it was denied but it probably never made it there which shows interference by an official making compliance impracticable. I was sanctioned with a loss of phone and commissary privileges from September 18, 2016, to October 15, 2016; five months in disciplinary restrictive housing from August 31, 2016 to January 31, 2017; a 120-day loss of good-time credit; and a one-step demotion in credit class (Dkt.1; Exhibit C). All before being afforded procedural due process. This is what the courts would call, a fundamental miscarriage of JUSTICE. Magistrate Michael G, Gotsch argues that prison officials were not required to create favorable evidence and I state the FACT that the evidence was already supposedly created according to the photo and conduct report. It's unfortunate that it doesn't support her allegation. Or was destroyed or never existed. So why was I Sanction?? Or how was I sanction given the circumstance??

DONNELL MITCHELL, Plaintiff. v. SONYA M. ALDRIDGE, Defendant.
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO
2007 U.S. Dist. LEXIS 75464
CASE NO. 1:07 CV 2137
September 28, 2007, Filed

(And)

NICHOLAS M. MARTIN and DIEGO I. FRAUSTO, Plaintiffs, v. FRANK J. SICILIANO and
OVERBROOK MANAGEMENT CORPORATION, Defendants
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN
DIVISION
2023 U.S. Dist. LEXIS 80949
No. 22 CV 2344
May 9, 2023, Decided
May 9, 2023, Filed

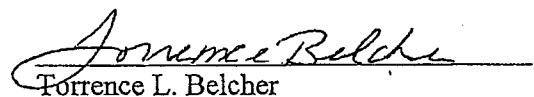
Should be consider when looking into this matter.

Respectfully Submitted,

Torrence L. Belcher
Torrence L. Belcher, Plaintiff, *pro se*
1 Park Row
Michigan City, IN 46360

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed with the U.S. District Court and served upon all parties of record, by depositing the same into the custody of IDOC staff to be e-filed this 27th day of June 2024.


Torrence L. Belcher

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

TORRENCE BELCHER,

Petitioner,

v.

CAUSE NO. 3:23-CV-1062-MGG

WARDEN,

Respondent.

ORDER

Torrence Belcher, a prisoner without a lawyer, filed a second motion to reconsider the order denying the habeas petition challenging a prison disciplinary proceeding. "A court may grant a Rule 59(e) motion to alter or amend the judgment if the movant presents newly discovered evidence that was not available at the time of trial or if the movant points to evidence in the record that clearly establishes a manifest error of law or fact." *Matter of Prince*, 85 F.3d 314 (7th Cir. 1996); *Deutsch v. Burlington N. R.R. Co.*, 983 F.2d 741 (7th Cir. 1993).

In the motion to reconsider, Belcher argues that the hearing officer considered prior acts of sexual misconduct in violation of the Federal Rules of Evidence. However, the right to procedural due process does not require correctional staff to comply with the Federal Rules of Evidence in prison disciplinary proceedings. See *Crawford v. Littlejohn*, 963 F.3d 681, 683 (7th Cir. 2020).

The ~~penalty was~~ judge demonstrated actual bias based on the findings in the order denying the habeas ~~at supported~~ petition. "[J]udicial rulings alone almost never constitute a valid basis for a bias or ~~by evidence~~."

Look up

partiality motion," *Liteky v. United States*, 510 U.S. 540, 555 (1994), and it is unclear how ~~28 USC § 455(b)(1)~~ the order denying the habeas petition amounts to an exception to this general rule.
 Additionally, Belcher argues that the evidence supporting the finding of guilt, which included a photograph, a video recording, and a conduct report, is irrelevant without DNA testing. The court disagrees with this argument as well. The conduct report is materially relevant as it includes a firsthand account of the misconduct for which Belcher was charged and found guilty, and the photograph and video recording are consistent with the conduct report. DNA testing might have bolstered or undermined this evidence, but the absence of DNA testing did not render such evidence entirely irrelevant.

if a Judge has knowledge of a parties misconduct and decides to ignore it like it didn't happen doesn't that indicate some kind of personal bias

For these reasons, the court DENIES the motion to reconsider (ECF 32).

SO ORDERED on July 11, 2024

s/Michael G. Gotsch, Sr.

Michael G. Gotsch, Sr.

United States Magistrate Judge

Case: 24-1935 Document: 00714432676 Filed: 08/30/2024 Pages: 1

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF ISSUANCE OF MANDATE

August 30, 2024

To: Chanda J. Berta
UNITED STATES DISTRICT COURT
Northern District of Indiana
South Bend, IN 46601-0000

No. 24-1935	TORRENCE BELCHER, Petitioner - Appellant v. RON NEAL, Respondent - Appellee
Originating Case Information: District Court No: 3:23-cv-01062-MGG Northern District of Indiana, South Bend Division Magistrate Judge Michael G. Gotsch, Sr.	

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

TYPE OF DISMISSAL:

Circuit Rule 3(b)

STATUS OF THE RECORD:

no record to be returned

Form name: c7_Mandate (Form ID: 135)

Case: 24-1935 Document: 00714432675 Filed: 08/30/2024 Pages: 1

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

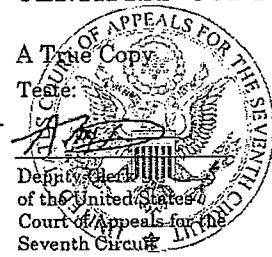
Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
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August 30, 2024

CERTIFIED COPY



By the Court:

No. 24-1935	TORRENCE BELCHER, Petitioner - Appellant v. RON NEAL, Respondent - Appellee
Originating Case Information:	
District Court No: 3:23-cv-01062-MGG Northern District of Indiana, South Bend Division Magistrate Judge Michael G. Gotsch, Sr.	

This cause, docketed on May 29, 2024, is DISMISSED for failure to timely pay the required docketing fee, pursuant to Circuit Rule 3(b).

form name: c7_FinalOrderWMandate (form ID: 137)