

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

December 19, 1996

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

NOTICE

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

No. 95-3488

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

**STATE OF WISCONSIN EX REL.
CHARLES L. TYLER,**

Petitioner-Appellant,

v.

GARY McCAUGHTRY,

Respondent-Respondent.

APPEAL from an order of the circuit court for Dodge County:
JOSEPH E. SCHULTZ, Judge. *Affirmed.*

Before Eich, C.J., Dykman, P.J., and Vergeront, J.

PER CURIAM. Charles L. Tyler appeals from an order affirming a prison disciplinary decision. We affirm.

On appeal, Tyler challenges only the finding that he violated WIS. ADM. CODE § DOC 303.59(3), which provides in relevant part: "The refusal of

an inmate to ... provide a body fluids specimen ... in accordance with s. DOC 306.16 is an offense." The conduct report alleged that after Tyler was requested to provide a urine sample, he emptied an unknown yellow fluid into the vial, without providing a sample of his own.

Tyler argues that he cannot be found guilty of violating WIS. ADM. CODE § DOC 303.59 because that section is entitled "Use of intoxicants," and no evidence exists to establish that he used intoxicants. We reject the argument. It is undisputed that Tyler violated subsec. (3) of that section. It is irrelevant whether that provision is fully described in the title of the section.

Tyler also argues that he was deprived of due process by not being given adequate notice that he was being charged with failure to provide a fluid specimen. We reject the argument. The conduct report, read together with the full text of WIS. ADM. CODE § DOC 303.59, provided adequate notice.

Tyler also claims that his due process rights were violated when the respondent asked the circuit court to remand to the committee and the committee added "(3)" to the charge. By doing so, Tyler argues, the committee changed the charge. We reject the argument. Adding the subsection did not change the violation alleged, but only made the citation more specific.

By the Court. – Order affirmed.

This opinion will not be published.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