

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 29, 2009

David R. Schanker
Clerk of Court of Appeals

NOTICE

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

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

Appeal No. 2008AP1716

Cir. Ct. No. 2007CV2027

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

GERALD POLZIN,

PLAINTIFF-APPELLANT,

v.

**MOLLY SULLIVAN OLSON, WARDEN HUIBREGTSE AND A. WESTBERG
N/K/A ALT,**

DEFENDANTS-RESPONDENTS.

APPEAL from an order of the circuit court for Dane County:
C. WILLIAM FOUST, Judge. *Affirmed.*

Before Vergeront, Higginbotham and Bridge, JJ.

¶1 PER CURIAM. Gerald Polzin appeals from an order dismissing his action brought under 42 U.S.C. § 1983. We affirm.

¶2 Polzin first argues that the circuit court erred by rejecting his claim that the defendants improperly violated his rights to have contact visits and to have an administrative review of denial of contact visits. Polzin argues that these rights are conferred on him by WIS. ADMIN. CODE § DOC 309.08 (June 2000). We do not agree that this provision requires either that contact visits be allowed, or that the defendants issue a person-specific denial of visitation when the denial of contact visitation is the result of a prison-wide policy that bans *all* contact visitation. As we read this rule, it merely addresses what persons may be permitted on a visiting list and what procedures will apply to visiting lists when visiting is, in fact, permitted.

¶3 Polzin next argues that his right to substantive due process was violated because prison officials originally decided not to transfer him to a more secure prison in response to a conduct report, but then later changed their minds and made that transfer, based on the same conduct report. He argues that their action was arbitrary and capricious. We reject this argument because Polzin has not provided us with any legal authority establishing that a change of mind by officials, by itself, is necessarily arbitrary and capricious.

¶4 Finally, Polzin argues that he was denied equal protection by the officials' change of mind about transferring him. He argues that this is a violation because he knows of no other prisoners who have been referred back to the program review committee twice on the same conduct report. Again, however, Polzin does not provide us with any authority establishing that such an action would be an equal protection violation.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE
809.23(1)(b)5.

