

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**July 17, 2003**

Cornelia G. Clark  
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. 02-3222  
STATE OF WISCONSIN**

**Cir. Ct. No. 02-CV-947**

**IN COURT OF APPEALS  
DISTRICT IV**

---

**STATE OF WISCONSIN EX REL. MAURICE GREER,**

**PETITIONER-APPELLANT,**

**V.**

**GERALD BERGE,**

**RESPONDENT-RESPONDENT.**

---

APPEAL from an order of the circuit court for Dane County:  
DAVID T. FLANAGAN, Judge. *Affirmed.*

Before Dykman, Roggensack and Deininger, JJ.

¶1 PER CURIAM. Maurice Greer appeals from a trial court order affirming on certiorari review an administrative confinement decision made by prison officials at the Supermax Correctional Institution. Greer claims his administrative confinement was improper because the Administrative Confinement Review Commission (ACRC) did not have a security supervisor on

it, Greer was not allowed to question a witness, and the ACRC improperly relied upon past conduct reports and an incident from Texas in making its determination. We reject each of Greer's arguments and affirm.

¶2 First, contrary to Greer's apparent belief, there is no requirement that the ACRC have a security supervisor on it. WISCONSIN ADMIN. CODE § DOC 308.03(1) requires that one of the committee members be from security, one be from treatment, and at least one be a supervisor. The record shows that Brian Kool was a unit manager on the ACRC, and we are satisfied that prison officials reasonably determined that Kool qualified as a supervisor within the meaning of the rule.

¶3 Next, Greer requested as a witness the staff member who had recommended that he be placed in administrative confinement. Under WIS. ADMIN. CODE § DOC 308.04(7)(d), however, the ACRC may require an inmate or his advocate to submit written questions to be asked of a witness who is not available for the hearing. Here, Greer was advised that the staff member would be unavailable for the hearing, but ACRC notes show that Greer failed to submit written questions for him.

¶4 Finally, Greer argues that the ACRC was prohibited from considering his past conduct and incident reports from Wisconsin and Texas because some of the disciplinary actions based upon the reports had or should have been reversed for procedural errors. Evidence of past misconduct was, however, relevant to whether Greer presented a continued security risk under WIS. ADMIN. CODE § DOC 308.01, regardless of whether the evidence also resulted in disciplinary action. *State ex rel. Curtis v. Litscher*, 2002 WI App 172, ¶¶24-25, 256 Wis. 2d 787, 650 N.W.2d 43. Greer was, as he contends, free to challenge the

accuracy of the allegations of his past misconduct. The ACRC was not, however, required to accept Greer's version of events. The ACRC could reasonably have determined that Greer was a continued security risk based upon the violent nature of his initial offense, his poor disciplinary record, and the incident reports alleging that Greer was a high-ranking gang member and had engaged in a fight in a Texas prison which had led to a riot.

*By the Court.*—Order affirmed.

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

