COURT OF APPEALS
DECISION
DATED AND RELEASED

May 16, 1996

NOTICE

No. 94-1579

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

STATE OF WISCONSIN EX REL. LAMONTE SIMMONS,

Petitioner-Appellant,

v.

JEFFREY ENDICOTT,

Respondent-Respondent.

APPEAL from an order of the circuit court for Columbia County: DANIEL S. GEORGE, Judge. *Affirmed*.

Before Gartzke, P.J., Dykman and Vergeront, JJ.

PER CURIAM. Lamonte Simmons appeals from an order whereby the trial court affirmed a decision of the Adjustment Committee at Columbia Correctional Institution. Simmons argues he was denied his right to confront the witnesses against him. He also argues that he was found guilty on the basis of informant statements which should not have been admitted because they are unsworn; that one of the statements was incorrectly abridged, with the

effect that important evidence (presumably exonerating him) was omitted from the statement as prepared; and that the adjustment committee acted improperly, convicting him on insufficient evidence. For the reasons set forth below, we affirm.

STANDARD OF REVIEW

Judicial review of *certiorari* actions is limited to determining whether the administrative hearing committee kept within its jurisdiction, whether it proceeded on a correct theory of law, whether its action was arbitrary, oppressive or unreasonable and represented its will and not its judgment, and whether the evidence was such that the committee might reasonably make the determination in question. ***State ex rel. Brookside Poultry Farms, Inc. v. Jefferson County Bd. of Adjustment***, 131 Wis.2d 101, 120, 388 N.W.2d 593, 600-01 (1986). As to this last issue, the test is whether reasonable minds could arrive at the same conclusion reached by the administrative tribunal. ***Id.***, 388 N.W.2d at 601. A reviewing court on *certiorari* does not weigh the evidence presented to the adjustment committee. ***Van Ermen v. DHSS***, 84 Wis.2d 57, 64, 267 N.W.2d 17, 20 (1978). Our inquiry is limited to whether any reasonable view of the evidence supports the committee's decision. ***State ex rel. Jones v. Franklin,*** 151 Wis.2d 419, 425, 444 N.W.2d 738, 741 (Ct. App. 1989).

BACKGROUND

After an attempt was made on the life of the warden at Columbia Correctional Institution, prison personnel interviewed various inmates in an attempt to discover whether there was an underlying conspiracy. As a result of these interviews, an inmate indicated that Lamonte Simmons was part of a plot to create a fight with other inmates which would divert the guards' attention from the planned assault and murder of the warden. Another inmate confirmed that such a plot existed, thus corroborating the first inmate's statement. These interviews were transcribed. One transcript was sworn to at the time it was made, the other is unsworn. However, the one sworn at time of making was not transcribed and sworn to in statement form as required by WIS. ADM. CODE § DOC 303.86.

By major conduct report, Simmons was charged with battery, aiding and abetting, contrary to WIS. ADM. CODE § DOC 303.12. Charges of incitement to riot and conspiracy were brought, but dismissed, and Simmons was found guilty of aiding and abetting a battery upon the warden. Simmons unsuccessfully appealed to the trial court, and now appeals to us.

ANALYSIS

Simmons first appears to argue that his constitutional rights were abridged because he was not allowed to confront the witnesses against him. We reject this argument. Simmons never requested any witnesses to appear at his hearing, although he seeks to evade this fundamental problem by asserting that his hearing advocate was ineffective. However, he did not develop the ineffective assistance of an advocate argument. It is not the job of the court of appeals to supply argument and legal research to an appellant who raises unsupported claims. *Cf.* ***State v. Waste Management***, 81 Wis.2d 555, 564, 261 N.W.2d 147, 151, *cert. denied*, 439 U.S. 865 (1978) ("[a]n appellate court is not a performing bear, required to dance to each and every tune played on appeal").

Simmons next argues that because the statements are unsworn, they were improperly used against him. We reject this argument also. WISCONSIN ADM. CODE § DOC 303.86(4), as well as ***State ex rel. Staples v. DHSS***, 115 Wis.2d 363, 370, 340 N.W.2d 194, 198 (1983), make clear that a statement made under oath and adequately corroborated can be used in lieu of live testimony where there is a danger that the witness might be subjected to risk of bodily harm for testifying in person. The Wisconsin Supreme Court has recently held that where a litigant complains that he has been prejudiced by lack of access to confidential records, Wisconsin appellate courts may determine whether the error was harmless or otherwise by an *in camera* inspection of the confidential records. ***State v. Speese***, No. 93-0443, slip op. at 3 (Wis. Mar. 20, 1996).

We have fully inspected the entire, unabridged confidential informant's statements in this appeal. While we agree that they are not sworn to in the form required by the Administrative Code, both contain such unmistakable indicia of reliability that we conclude that Simmons's lack of access to the entire statements was harmless error. ***Id.*** at 3.

Simmons argues that one of the statements contains omissions, and he appears to believe these omissions prejudiced him. We have compared the complete statements made by the informants to the abridged statements made available to Simmons. We conclude that the abridgements were fair, and that nothing essential or exculpatory was omitted.

Simmons argues, in essence, that the confidential witness statements are uncorroborated. He places great weight on the fact that one witness claims that a "hit list" existed, and another witness does not mention the "hit list." However, Simmons mistakes the nature of the corroboration required. It is not necessary that each witness echo exactly the details provided by the other. Rather, a statement can be corroborated by other evidence that substantially corroborates the facts alleged. WIS. ADM. CODE § DOC 303.86(4). This rule protects the due process requirement that the committee rely upon reliable confidential information. *See* ***Wells v. Israel***, 854 F.2d 995, 998-99 (7th Cir. 1988). As stated above, we have fully examined the complete statements made by the confidential witnesses. The statements corroborate one another, despite the lack of specific reference to a "hit list" in the corroborating statement.

For the foregoing reasons, we conclude that the committee had sufficient evidence before it from which it could reasonably conclude that Simmons was guilty as charged.

By the Court.—Order affirmed.

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