**COURT OF APPEALS**
**DECISION**
**DATED AND FILED**

**April 19, 2012**

**Diane M. Fremgen**
**Clerk of Court of Appeals**



**Appeal No. 2010AP2111** **Cir. Ct. No. 2007CV324**

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

**STATE OF WISCONSIN EX REL. JOSE SOTO,**

**PETITIONER-APPELLANT,**

**V.**

**WILLIAM POLLARD AND MATTHEW FRANK,**

**RESPONDENTS-RESPONDENTS.**

APPEAL from an order of the circuit court for Dane County: RICHARD G. NIESS, Judge. *Affirmed*.

Before Lundsten, P.J., Vergeront and Sherman, JJ.

¶1 PER CURIAM. Jose Soto appeals an order affirming a prison discipline decision. We affirm.

¶2 Soto first makes several arguments related to the administrative record returned by the Department of Corrections to the circuit court. Soto argues that the record is defective because the hearing officer did not make a required correction to it before he exhausted his administrative appeals. Soto does not explain how this alleged error would affect the outcome of this case, nor does he provide any authority requiring that correction to be made at any particular time.

¶3 Soto argues that neither he nor his advocate was provided with copies of the confidential informant summaries that appear in the record. However, the hearing record shows that the hearing officer confirmed with Soto at the hearing that Soto had received copies of the summaries. Soto also argues that the hearing record is missing exhibits M, N, and O, which he submitted at the hearing. Soto claims these exhibits are "key" to his defense. However, his brief description of them does not persuade us that they would leave the hearing officer's finding of guilt unsupported by substantial evidence. At best, they are contrary evidence that the hearing officer was free to weigh.

¶4 Soto next argues that the hearing officer improperly denied Soto's request to have his advocate question the confidential informants without revealing their identity to Soto. However, the rule he cites, WIS. ADMIN. CODE § DOC 303.81(3) (Dec. 2006), does not provide for questioning in that format.

¶5 Soto next argues that the hearing officer's assessment of the reliability of the confidential informants was too vague to satisfy due process. However, Soto does not provide us with any law holding that a simple statement finding the informants credible, as occurred here, is inadequate.

¶6 Soto next argues that he was improperly charged with multiple conduct reports for a "single incident." The relevant rule provides: "The

institution shall issue only one conduct report for each act or transaction that is alleged to violate these sections. If one act or transaction is a violation of more than one section, the institution shall only issue one conduct report." WIS. ADMIN. CODE § DOC 303.66(3).

¶7 Soto's argument appears to be that this provision was violated because prison staff already had evidence related to the current charges when they previously issued a separate conduct report for another charge. However, the test in the rule is not whether staff had evidence, the test is whether it was the same "act or transaction." In this case, the earlier charge was for "group resistance and petitions," while in the present case the charges were for possession of intoxicants and conspiracy. These were not the same act or transaction.

¶8 Soto next argues that the evidence was insufficient to support the finding of guilt. On certiorari review, we apply the substantial evidence test, that is, whether reasonable minds could arrive at the same conclusion reached by the department. ***State ex rel. Richards v. Traut***, 145 Wis. 2d 677, 680, 429 N.W.2d 81 (Ct. App. 1988). He argues that the confidential informant statements are not sufficient evidence. However, none of his arguments for why we should disregard them are persuasive. The informant statements say Soto was involved in bringing drugs and tobacco into the prison. They are sufficient evidence.

¶9 Soto next argues that the hearing officer erred by not individually addressing some of the exhibits Soto submitted. Soto provides no legal authority requiring a hearing officer to individually address exhibits when the inmate has submitted dozens of exhibits.

¶10 Soto next argues that he was denied proper notice of the charges because the conduct report did not tell him the place, date, and time of his alleged

conversations with the confidential informants. We reject the argument because such precise disclosure of that information would compromise the confidentiality of the informants.

*By the Court.*—Order affirmed.

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