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**DISTRICT IV**

March 14, 2016

To:

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Circuit Court Judge  
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You are hereby notified that the Court has entered the following opinion and order:

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2015AP341

State of Wisconsin ex rel. Pharoah V. Morris v. Edward F. Wall  
(L.C. # 2014CV1171)

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

Pharoah Morris appeals the circuit court's order that denied his petition for certiorari review of a prison disciplinary decision. After reviewing the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21.<sup>1</sup> We affirm for the reasons discussed below.

Certiorari review of a prison disciplinary decision is limited to determining whether the Department of Corrections acted: (1) within its jurisdiction; (2) according to applicable law;

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

(3) in a reasonable and non-arbitrary manner; and (4) based upon the evidence before it. *See State ex rel. Curtis v. Litscher*, 2002 WI App 172, ¶10, 256 Wis. 2d 787, 650 N.W.2d 43.

Morris contends that prison officials violated WIS. ADMIN. CODE § DOC 303.66(3) (and thus failed to act according to law) when they issued him a conduct report arising out of the same incident that had formed the basis for a prior conduct report. The code provision at issue states that a correctional institution “shall issue only one conduct report for each act or transaction that is alleged to violate these sections,” even if that act or transaction is a violation of more than one section of the rules applicable to prisoners. WIS. ADMIN. CODE § DOC 303.66(3) (Dec. 2006).

The first conduct report was based upon allegations that, at or about 11:00 a.m. on September 12, 2013, at HSU (which we understand to be the prison health services unit), a staff member heard Morris yelling in the hallway that he had been sexually assaulted and wanted security staff. Morris continued yelling as multiple staff members attempted to calm him down. A hearing officer found Morris guilty of two charges based upon the incident: (1) “Disrespect” for making “comments about a staff member that were demeaning towards his character” that were made outside of the formal complaint system and were made loudly enough for others to hear; and (2) “Disruptive Conduct” for creating “a disturbance in a normally quiet environment” that required staff to stop “doing what they were assigned to” in order to attend to him.

The second conduct report charged Morris with “Lying About Staff,” based upon allegations that, at or about 11:00 a.m. on September 12, 2013, at HSU, Morris falsely reported during an interview—which it appears from the time listed on the conduct report must have occurred immediately following Morris’s shouting outburst—that a prison doctor had sexually

assaulted him during an exam by touching him inappropriately. Morris then repeated his false claim in writing on a TLU form and in an inmate complaint.

Although the conduct underlying the two conduct reports is plainly related, the conduct reports are directed at different conduct. The conduct report for disrespect and disruptive conduct focuses on Morris's behavior in and around the health services unit. In contrast, the conduct report for lying is directed at Morris's conduct when he later made allegations against the doctor.

Because we hold that the issuance of the second conduct report did not violate the administrative rule against issuing multiple reports based upon the same act or transaction, we conclude that the disciplinary decision under review was issued according to law.

Therefore,

IT IS ORDERED that the circuit court's order is affirmed pursuant to WIS. STAT. RULE 809.21(1).

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