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DISTRICT IV

February 8, 2019

To:

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

2017AP2019

State of Wisconsin ex rel. Lee Crouthers v. C. O'Donnell
(L.C. # 2017IP35)

Before Sherman, Kloppenburg and Fitzpatrick, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Lee Crouthers appeals an order denying his petition for writ of certiorari. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

Crouthers' writ petition sought review of a prison discipline decision. The circuit court dismissed the petition as frivolous without further analysis.

Crouthers was found guilty of inadequate work performance under WIS. ADMIN. CODE § DOC 303.63 (through Sept. 2014). The conduct report alleged that Crouthers had written several letters to a female staff member at his work place.

Crouthers appears to argue that he received inadequate notice of the charge because he should have been removed from his employment position under a provision in WIS. ADMIN. CODE ch. DOC 324, instead of the above disciplinary provision. However, he does not cite any law that makes ch. DOC 324 the exclusive method for employment removal. Additionally, it is not clear in what sense this is a problem of inadequate notice. There is no merit to this argument. Furthermore, Crouthers waived his due process hearing, which would have been his opportunity to assert that he was unable to defend himself due to inadequate notice, or that the disciplinary code provision was inapplicable.

Crouthers also argues that the department failed to follow WIS. ADMIN. CODE § DOC 303.78(3)(a) (through Sept. 2014), under which the conduct report should have been returned to Crouthers for his signature after the security director approved the agreed-to disposition. This argument appears to lack a factual basis, because the conduct report shows that the box is checked showing review by the security director, and the form is also signed by Crouthers in that location.

IT IS ORDERED that the order appealed is summarily affirmed under WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition will not be published.

Sheila T. Reiff
Clerk of Court of Appeals