

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 19, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

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 § 808.10 and RULE 809.62, STATS.

No. 98-1484

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

**STATE OF WISCONSIN EX REL. TONY G.
MERRIWEATHER,**

PETITIONER-APPELLANT,

V.

GARY R. McCAUGHTRY,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Dodge County:
JOSEPH E. SCHULTZ, Judge. *Affirmed.*

Before Eich, Vergeront and Deininger, JJ.

PER CURIAM. Tony Merriweather, an inmate at Waupun Correctional Institution, appeals from an order affirming a decision of the warden of WCI and the deputy administrator of the Department of Corrections. That decision, in turn, affirmed a decision of the program review committee at WCI,

acting as an administrative confinement review committee. The committee's action resulted in Merriweather's placement in administrative confinement based on past violent acts and gang activity in prison. Merriweather raises numerous issues regarding the conduct of the proceedings and the administrative decisions that aggrieve him. He also contends that the trial court reviewed the matter on an inadequate record. At one stage or another, Merriweather waived all the issues he now raises. We therefore affirm.

After the committee ordered Merriweather placed in administrative confinement he exercised his right to administrative review by the warden and DOC administrator under WIS. ADM. CODE § DOC 308.04(9). In that review, Merriweather asserted that the committee was biased, that the security director failed to follow WIS. ADM. CODE § DOC 308.04(4)(e)(4), that the committee violated his due process rights and administrative rules when it failed to provide him a copy of all the physical evidence it relied on, and that the committee relied on irrelevant and inadmissible evidence of his past conduct to reach its decision. Because Merriweather limited his administrative appeal to those four issues, he waived the additional ones he raised in the judicial review proceeding. *See Santiago v. Ware*, 205 Wis.2d 295, 325-26, 556 N.W.2d 356, 368 (Ct. App. 1996).

Merriweather also waived judicial review of the four issues listed above, raised in his administrative appeal. The inmate complaint review system provides an additional means of challenging the procedural violations Merriweather alleged. *See* WIS. ADM. CODE § Ch. DOC 310. When a remedy such as the ICRS exists, failure to pursue it waives the right to judicial review. Section 801.02(7), STATS.

Finally, we decline to review Merriweather's assertion that the record in the trial court was inadequate. Merriweather did not raise that issue in the trial court, and it is therefore waived here.

By the Court.—Order affirmed.

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

