

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**January 19, 2006**

Cornelia G. Clark  
Clerk of Court of Appeals

**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 WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2005AP49  
STATE OF WISCONSIN**

Cir. Ct. No. 2004CV1744

**IN COURT OF APPEALS  
DISTRICT IV**

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**STATE OF WISCONSIN EX REL. RUFUS WEST,**

**PETITIONER-APPELLANT,**

**V.**

**GERALD BERGE AND MATTHEW FRANK,**

**RESPONDENTS-RESPONDENTS.**

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APPEAL from an order of the circuit court for Dane County:  
DANIEL R. MOESER, Judge. *Affirmed.*

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

¶1 PER CURIAM. Rufus West appeals an order denying his petition for certiorari review. He argues that his procedural rights were violated during prison disciplinary proceedings and that there was insufficient evidence to find

him guilty of disobeying orders, disruptive conduct, and violating institution policies and procedures. We affirm.

¶2 West first argues that his procedural rights were violated because he was not provided a copy of conduct report #1411802 within two working days after it was approved, as required by WIS. ADMIN. CODE § DOC 303.76(1) (May 2003). The record does not support West's claim. The conduct report was approved by the security director on July 28, 2003. The conduct report indicates that West received a copy of it on July 29, 2003, but that he refused to sign the notice indicating that he had received it. In a document West completed entitled "Offender's Request For Attendance Of Witness," which was also dated July 29, 2003, West quoted the conduct report, which shows that he had already received a copy of it. Because West received the report one day after it was approved, we reject this argument.

¶3 West next argues that he was denied the right to confront witnesses at the disciplinary hearings on conduct reports #1411802 and #1564992. West refused to attend these hearings. West was not denied the *right* to confront witnesses at these hearings since the only reason he was not able to confront the witnesses is because he *chose* not to participate.

¶4 West next argues that his procedural rights were violated when prison officials denied his request for a videotape of his cell that was made during the time his misconduct took place. *See* WIS. ADMIN. CODE § DOC 303.76(1)(e)1. (May 2003). We will assume for purposes of this appeal that under some circumstances a prisoner would be entitled to a videotape made of his or her cell to present as evidence. However, even assuming that is true, West's request for the tape was not sufficient to apprise authorities that the tape would contain

information necessary for the hearing. West did not explain what might be found on the tape that he believed would support his case or why the tape was essential to his case. We reject this claim.

¶5 West next argues that his procedural rights were violated because conduct report #1564992 encompassed three different offenses, which West believes violates WIS. ADMIN. CODE § DOC 303.66(3) (May 2003). That section of the administrative code 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.” (Emphasis added.) The three offenses alleged in the conduct report all pertained to West’s behavior on December 21, 2003, at about 8:00 in the evening, when he was disruptive and refused to follow the orders of prison staff. Because the charges pertained to one transaction, they may be brought in one conduct report.

¶6 West next argues that the evidence was insufficient to find him guilty of disobeying orders, disruptive conduct, and violating institution policies and procedures, as charged in conduct report #1564992. West was yelling for his medication, which disturbed other inmates. Shortly thereafter, he was observed sleeping on the floor, despite the fact that he had been given orders not to sleep on the floor and had been informed that sleeping on the floor violated the prison rules. This evidence was sufficient to support the decision finding him guilty of the violations.

*By the Court.*—Order affirmed.

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

