

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DENNIS GONZALEZ,

Petitioner,

v.

GERALD BERGE, Warden, Wisconsin
Secure Program Facility,

Respondent.

ORDER

03-C-0499-C

Petitioner Dennis Gonzalez has filed objections to the report and recommendation entered by the United States Magistrate Judge, in which the magistrate judge recommended granting respondent Gerald Berge's motion to dismiss petitioner's petition for a writ of habeas corpus for failure to state a claim. Although the objections are extensive, they do not raise any question about the correctness of the magistrate judge's recommendation.

Petitioner continues to argue that respondent did not provide him the due process to which he is entitled when charged with a disciplinary violation in the prison. In particular, he argues that the reports of confidential informants on which the disciplinary committee relied did not conform to prison regulations because they were neither

corroborated nor made under oath. The magistrate judge dealt with this argument, pointing out that petitioner could not raise it on habeas corpus because he had never raised it in state court; it is questionable whether the regulation has any application in a situation in which an inmate has waived his right to call or confront witnesses, as petitioner did; and, in fact, the statements were corroborated: in each, the informants described petitioner's drug distribution activities within the prison. Finally, even if petitioner were to prevail on his challenge to the use of the statements, he would not be entitled to relief from this court. His challenge is directed to a state law, not a federal constitutional right. The regulation in question does not give rise to a liberty interest protected by the due process clause of the Fifth Amendment.

After petitioner filed his eleven-page objection to the magistrate judge's report and recommendation, he filed a motion for an enlargement of time to file objections. That motion will be denied. Petitioner has filed a comprehensive set of objections to the report; he has set forth no reason why he needs additional time to submit additional objections.

ORDER

IT IS ORDERED that petitioner Dennis W. Gonzalez's motion for an extension of time in which to file additional objections to the report and recommendation entered by the United States Magistrate Judge on December 5, 2003, is DENIED. FURTHER, IT IS

ORDERED that the magistrate judge's recommendation is ADOPTED and defendant Gerald Berge's motion to dismiss petitioner's petition for a writ of habeas corpus is GRANTED. The clerk of court is directed to close this case.

Entered this 30th day of December, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge