

September 1, 2020 @ OSCl

Morning everyone!

I'm doing something a bit different with this post. I'm including a short article I wrote to help incarcerated individuals fight disciplinary sanctions. I'll be back to my regularly scheduled rants in the next post.

I would ask all advocates, friends, and loved ones of incarcerated individuals in the WI DOC to print off/email a copy to that individual. Information is notoriously skewed when passed out around here (we call it inmate.com) so the more people that have the actual text the better.

Thank you for sharing and caring! To any regular readers, please stay safe and sane!

-Tony

(Begin Article)

Fighting Excessive Informal and Summary Disciplinary Sanctions: A Practical Perspective
by Tony Justich (©August 25, 2020) @ OSCl

I've noticed a lot more "informal" sanctions happening lately in the disciplinary process. This means that instead of writing a conduct report staff will offer an informal sanction (extra duty, loss of dayroom, etc) to see if you'll agree to it. These are a couple methods to try to get a lesser sanction. Sometimes the informal disposition is a reasonable offer but staff can sometimes take things too far.

It's alright to take a reasonable informal sanction but remember that you can always try to counter with a lesser amount. First, try to bargain down with the officer. If they won't do it then go to the Sgt. Emphasis that the sanction seems a bit steep/is unwarranted and offer a compromise. If you're guilty or can be found guilty, then an apology (however much it pisses you off) and taking responsibility can help with your negotiations to get the offered sanction lowered.

If you do get an actual conduct report then the best bargaining tool we have is called "progressive discipline". Basically, what it means is that for minor rule breaking the sanction should start low and get progressively higher for each further infraction. This argument is made in your statement contesting the conduct report. Typically, and these may be slightly different at different institutions, a first summary should be around 3 days loss of day room/10 hrs extra duty, a second around 5 days loss of day room/20 hrs extra duty. Third summary of 15 days loss of day room/15 days building confinement with 30 days loss of day room and 30 days building confinement thereafter. At that point it can earn a trip to Seg instead of a summary but you can usually get out with the same disposition of 30 & 30. But battling to avoid Seg is not the focus of this article, I'll returned to summary dispositions.

If you do get offered a high summary disposition offer on a conduct report that's outside of this range but haven't had any tickets for a while, you can refuse the summary and argue for a lesser disposition in your statement that gets sent to the white shirt. The argument would state that "My progressive discipline should restart as I've had no actual conduct reports in [at least 6-months; preferably a year as the longer your time without a conduct report you've gone the better]. I believe [insert lesser sanction] would be more appropriate in this situation." Obviously, this argument can be bolstered as with negotiations for a lower sanction listed above and you can make this statement without regard to previous warnings or informal sanctions for the same type of conduct.

An example, my cellie and I leave the door open to circulate fresh air despite the rule against it when its really hot (shhh...don't tell anybody). We each received three warnings for it and two back-to-back informal sanctions (5 days loss of day room) within the space of about a week and a half. We were then written up with a conduct report a few days after completing the informal sanctions for again having the door opened and offered a 10 day loss of day room summary. My cellie didn't take my advice on how to fight it to get it reduced and got the full 10 days he'd accepted. I refused the summary and made the progressive discipline argument as I had not had a conduct report in well over a year. I suggested that since this was the case a sanction of 3 days loss of day room would be more appropriate. So, while my cellie got 10 days loss of day room, I received only 3.

Bottom line, staying cool, logical and respectful will help your arguments to succeed. Rehearse before presenting your argument. These methods will work more often than not if properly applied. Stay safe and sane!

End of Article

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To potential publishers;

I am submitting the following article on challenging summary and informal disciplinary sanctions for incarcerated individuals in the WI Department of Corrections. These are the most common dispositions for rule violations in the WI DOC and those most easily abused by staff as there is no due process. I hope that you choose to publish this article as I believe it will be of immense help to the incarcerated individuals that have to deal with this unfairness everyday.

I hereby certify that this is my original work and grant permission for the unlimited nonprofit reproduction/copying by any organization/person that helps support those who are incarcerated and by any incarcerated individual or their friends/loved ones/support network. Permission is granted to utilize my real name and location along with publication of this article. Publication for profit is only allowed with the express consent of the author.

Thank you,
Tony

For more info, please contact me at the following address or reply to this post.

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