

You are requesting administrative relief regarding the decision of the Discipline Hearing Officer (DHO) on August 12, 2015, in which you were found to have committed the prohibited act of Assaulting any Person without Serious Injury, Code 224. You make several claims which will be addressed below. Although you do not specify what you seek for relief, it appears you wish to have the incident expunged from your discipline record and the sanctions reversed.

On appeal, the appropriate reviewing authority shall consider: a. Whether the UDC or DHO substantially complied with the regulations on inmate discipline; b. Whether the UDC or DHO based its decision on some facts, and if there was conflicting evidence, whether the decision was based on the greater weight of the evidence; and c. Whether an appropriate sanction was imposed according to the severity level of the prohibited act, and other relevant circumstances.

A review of the disciplinary action indicated that you were provided due process as required by Program Statement 5270.09, Inmate Discipline Program. You were given advanced written notice of the charges against you more than 24 hours prior to your appearance before the DHO. You were afforded the opportunity to have staff representation and to call witnesses. You waived both of these rights. You were afforded the opportunity to make a statement to the DHO and present documentary evidence on your behalf. Your admission has been addressed by the DHO and reflected in the record. There is no indication in the record that you presented documentary evidence.

The DHO report clearly indicates the basis for the finding that you committed the prohibited act and explains the purpose of imposing the sanctions which are within policy.

You claim you are innocent of the charge. Bureau of Prisons policy directs the DHO to consider all evidence presented at the hearing and to make a decision based on some facts, and if there is conflicting evidence, to base the decision on the greater weight of the evidence. It is apparent that the DHO found you guilty based on the greater weight of the evidence. Evidence weighed against you included the account of the reporting officer, the documentary evidence contained in the discipline packet, and your admission to the DHO. Such evidence supports the fact that you assaulted staff. This evidence, coupled by your inability to produce credible and verifiable evidence which exonerates you from the charge, reasonably led the DHO to a guilty finding.

You claim UDC conducted an untimely review of your incident. Each inmate charged with misconduct is entitled to an initial review before the UDC, ordinarily held within five work days from the time staff became aware of the inmate's involvement in the incident. This five work day period excludes the day staff became aware of the inmate's involvement in the incident, weekends, and holidays. The record indicates you were re-served a copy of the report on July 26, 2015, at 7:13 p.m. due to an administrative error. The UDC then conducted its hearing on July 30, 2015. This was documented in the DHO report. After taking into account this information, the record supports the fact your initial review was held in a timely manner.

Though you claim you did not receive a copy of the DHO Report in a timely manner, the record indicates a copy of the DHO Report was issued to you on October 5, 2015. The DHO documented the reason for delay in the DHO report. The fact that your appeal is being reviewed indicates that your ability to contest the action has not been denied. We have taken the liberty to provide you with a copy of your DHO Report.

Lastly, amongst the documents you submitted in your appeal we note you present new evidence for consideration. Inmates are afforded the opportunity to present or request evidence for review or consideration at the UDC or DHO hearing, not during the appeal process. This is not the forum to request such action.

The allegations presented in your request for relief have been investigated and determined to be without merit. Thus, your request for relief from the discipline action or sanctions is denied.

If dissatisfied with this response, you may appeal to the Office of the General Counsel, Bureau of Prisons, 320 First Street, NW, Washington, D.C., 20534. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

Date

10/9/15

JUAN D. CASTILLO, Regional Director