

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted March 8, 2007*
Decided April 10, 2007

Before

Hon. DANIEL A. MANION, *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

No. 06-2888

MICHAEL D. WHITENER,
Petitioner-Appellant,

v.

ALAN FINNAN,**
Respondent-Appellee.

Appeal from the United States District
Court for the Northern District of
Indiana, South Bend Division

No. 3:05-CV-0792AS

Allen Sharp,
Judge.

O R D E R

Indiana inmate Michael Whitener appeals the district court's decision denying his petition for a writ of habeas corpus, 28 U.S.C. § 2254. Whitener claims that his right to due process was violated in a prison disciplinary proceeding because insufficient evidence supported the Final Reviewing Authority's finding that he had

* After an examination of the briefs and the record, we have concluded that oral argument is unnecessary. Thus the appeal is submitted on the briefs and the record. *See* Fed. R. App. P. 34(a)(2).

** After this appeal was filed, Whitener was transferred to a different facility. We have substituted the warden of that facility as the respondent.

aided a battery. We had previously determined that, in order to resolve this issue, we needed to review the investigator's case file and internal affairs summary that the Final Reviewing Authority relied on but that was not part of the record in the district court. We ordered a limited remand so the district court could receive these materials into the record and forward them to us. The district court has now done this, and our review of this material convinces us that "some evidence" supports the Final Reviewing Authority's decision. *See Superintendent, Mass. Corr. Inst., Walpole v. Hill*, 472 U.S. 445, 455-57 (1985); *Webb v. Anderson*, 224 F.3d 649, 652 (7th Cir. 2000). Therefore we AFFIRM the decision of the district court.