



“[I]n all habeas corpus proceedings under 28 U.S.C. § 2254, the successful petitioner must demonstrate that he ‘is in custody in violation of the Constitution or laws or treaties of the United States.’” *Brown v. Watters*, 599 F.3d 602, 611 (7th Cir. 2010) (quoting 28 U.S.C. § 2254(a)). Prisoners in Indiana custody may not be deprived of good-time credits, *Cochran v. Buss*, 381 F.3d 637, 639 (7th Cir. 2004), or of credit-earning class, *Montgomery v. Anderson*, 262 F.3d 641, 644–45 (7th Cir. 2001), without due process. The due process requirement is satisfied with the issuance of advance written notice of the charges, a limited opportunity to present evidence to an impartial decision maker, a written statement articulating the reasons for the disciplinary action and the evidence justifying it, and “some evidence in the record” to support the finding of guilt. *Superintendent, Mass. Corr. Inst. v. Hill*, 472 U.S. 445, 454 (1985); *Wolff v. McDonnell*, 418 U.S. 539, 570–71 (1974).

The single basis for Wilkins’ petition for writ of habeas corpus is that his right to due process was violated in No. 15-11-0080 when prison authorities refused to arrange for forensic testing of the substance he was charged with possessing and thereby prevented him from obtaining the presence of an expert tester and subjecting that person to cross-examination.

Although the limited due process protections already noted are implicated when a prisoner faces the loss of earned good time because of misconduct, the measures Wilkins believes would have enhanced his defense are not among those protections. *See Allen v. Purkett*, 5 F.3d 1151, 1153 (8th Cir. 1993) (per curiam) (holding that prison officials were not required to provide additional urinalysis by impartial laboratory to corroborate reports about prisoner’s drug use); *Freitas v. Auger*, 837 F.2d 806, 812 n.13 (8th Cir. 1988) (holding that prisoners are not entitled to polygraph tests in disciplinary hearings). Even in a criminal trial, forensic testing is not necessary

to prove the identity of controlled substances so long as the other evidence, both circumstantial and direct, is sufficient. *United States v. Sanapaw*, 366 F.3d 492, 496 (7th Cir. 2004).

Just as Wilkins' limited right to due process in the setting described here did not entitle him to create evidence arguably pertinent to the charge he was facing, so that limited right to due process also would not have entitled him to confront and cross-examine a person who had tested the suspected contraband. *Piggie v. Cotton*, 342 F.3d 660, 666 (7th Cir. 2003); *Brown-Bey v. United States*, 720 F.2d 467, 469 (7th Cir. 1983)(“Confrontation and cross-examination of witnesses in the context of a prison disciplinary proceeding are matters left to the sound discretion of prison officials.”).

“The touchstone of due process is protection of the individual against arbitrary action of the government.” *Wolff*, 418 U.S. at 558. Based on Wilkins' account, there was no arbitrary action in any aspect of the charge, disciplinary proceeding, or sanctions involved in the events identified in this action, and there was no constitutional infirmity in the proceeding which entitles him to the relief he seeks. Accordingly, his petition for a writ of habeas corpus must be **denied**.

## II.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 4/5/2016

Distribution:

WALLACE WILKINS      DOC # 983863  
PENDLETON - CIF  
CORRECTIONAL INDUSTRIAL FACILITY  
Inmate Mail/Parcels  
5124 West Reformatory Road  
PENDLETON, IN 46064



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TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana