

MISCONDUCT REPORT

Prisoner Number: 192744	Prisoner Name: COLVIN	Facility Code: LMF	Lock: 211U	Violation Date: 6-17-13
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Time and Place of Violation: 1159 CHOWHALL	Contraband Removal Record Provided to Prisoner? <input type="checkbox"/> Yes Date _____ <input checked="" type="checkbox"/> N/A
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Misconduct Class: I II III Charge(s): THREATENING BEHAVIOR

Describe Violation (If contraband involved, describe in detail; identify any other employee witnesses):
 AT THE ABOVE TIME AND PLACE WHILE I WAS SUPERVISING CHOW LINES PRISONER COLVIN #192744 CALLED ME OVER TO HIS TABLE TO TALK ABOUT HIS MEAL, PRISONER STATED TO ME WITH DIRECT EYE TO EYE CONTACT FROM APPROX 2 FEET AWAY " YOU HAD BETTER GET WITH FOOD LEADER CARL AND TEACH HER HOW TO TALK TO PRISONERS BEFORE I SLAP HER BITCH ASS IN THE FACE " PRISONER IDD BY FREQUENT CONTACT AND PINE UNIT COUNT BOARD.

Reporting Staff Member's Name (Print) R PEDERSON-	Reporting Staff Member's Signature <i>[Signature]</i>	Date and Time Written 6-17-13 1230
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REVIEW

Location/Verification/Condition of Evidence:

Elevated to Class I at review: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", explain reason: <i>ALREADY CLASS I (RD)</i>
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COMPLETE THIS SECTION ONLY FOR REVIEW OF CLASS I MISCONDUCT

Status Pending Hearing: Reason if Non-Bond:	<input type="checkbox"/> Bond	<input checked="" type="checkbox"/> Segregation A-101	<input type="checkbox"/> Confinement to Cell/Room	<input type="checkbox"/> Other
	<input checked="" type="checkbox"/> Non-Bond List	<input type="checkbox"/> Bond Revoked (must give reason)		

Date and Time Given this Status: <i>6-17-13 1310 hrs.</i>	Who Notified in Housing Unit of Status: <i>SA MONTICELLO</i>
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Hearing Investigator Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Witnesses Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
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Relevant Documents Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes If yes, list: <i>VIDEO RECORDING IF AVAILABLE</i>	If yes, list: <i>WILL TELL H, I,</i>
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Additional Comments:	Prisoner Waives 24 Hour Notice of Hearing? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Hearing Date: <i>6-18-13</i>
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Reviewing Officer's Name (Print) <i>Sgt. R. Livermore</i>	Reviewing Officer's Signature <i>[Signature]</i>	Review Date and Time <i>6-17-13 1320</i>
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I have received a copy of this report. My signature does not necessarily mean that I agree with the report. <input checked="" type="checkbox"/> Prisoner refused to sign. Copy given to prisoner.	Prisoner's Signature <i>[Signature]</i>	Date
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WAIVER OF CLASS II OR III HEARING

I understand I have a right to a hearing. I waive my right to a hearing and plead guilty to all charges. I also waive my right to appeal and accept the sanctions imposed.	Prisoner's Signature <i>[Signature]</i>	Date <i>[Date]</i>
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SANCTIONS IMPOSED (Hearing Investigator enters begin and end dates for Class II misconducts)

_____ Days Toplock	Begins: _____	Ends: _____	<input type="checkbox"/> Counseling/Reprimand (Class III only)
_____ Days Loss of Privileges	Begins: _____	Ends: _____	<input type="checkbox"/> \$ _____ Restitution (Class II only)
_____ Hours Extra Duty	Begins: _____	Ends: _____	

Property Disposition If Applicable: _____

Employee Accepting Plea and Imposing Sanction (Print)	Employee's Signature	Date
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Hearing Investigator's Name (Print)	Hearing Investigator's Signature	Date
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MICHIGAN DEPARTMENT OF CORRECTIONS
CLASS I MISCONDUCT HEARING REPORT

CSJ-240B
 Rev. 10/10

Prisoner 192744	Prisoner Name Colvin	Facility Code LMF	Lock 001	Violation Date 06/17/2013
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Charge(s)
012: Threatening Behavior

If Charge Changed by Hearing Officer _____ Plea
 Guilty Not Guilty

Misconduct Report Read to and Discussed with Prisoner (check if applies)
 Hearing Investigation Read to and Discussed with Prisoner (check if applies)
 No Hearing Investigation Requested (check if applies)

EVIDENCE/STATEMENTS IN ADDITION TO MISCONDUCT REPORT

Misconduct report, investigator report, prisoner's statement, statements from Henderson, Davis, and Betz, responses from Pederson, verification and Misconduct Sanction Screening Form read to the prisoner. Hearing Officer viewed the video to start the hearing. Prisoner informed that, when the video started at 11 58 01, the prisoner appeared to be talking to someone behind the line. Pederson walked over to the prisoner's table at 11 58 01 and Carl came over at 11 58 13 and showed the prisoner a piece of paper. Pederson left at 11 58 21 and Carl remained, standing right next to the prisoner. She left at 11 58 36. Pederson came back at 11 59 07 with some piece of paper, showed it to the prisoner, and left at 11 59 25. Prisoner left his seat at 11 59 49. No other staff members were seen in the area. Prisoner stated that he was talking to Carl when the video started and it showed him talking to someone on the serving line. Prisoner stated that he wrote a grievance on this and Aaron came over to review him on the grievance on Thursday. Aaron said he would be a witness as this is a fabricated misconduct report. Pederson tried to have Aaron involved in another ticket and Aaron refused. He would like Aaron as a witness. Prisoner asked if Carl's statement was obtained. Prisoner had no other comment. Prisoner informed of the decision prior to leaving the hearings room.

REASONS FOR FINDINGS

VIDEO: The Hearing Officer is holding the video and the still from that video to be confidential. Release of the video or still would disclose the range and scope of camera coverage and jeopardize institutional security. Prisoner is not prejudiced by this finding as the contents were released to the extent mentioned in this hearing report and the prisoner was given an opportunity to comment on the video during the hearing.
AARON: Aaron was not present at the time of the incident. His statement, which would be nothing more than speculation if the prisoner's claims about his conversation with Aaron are true, is irrelevant.
CARL: Questions to Carl should have been answered as they could have provided relevant details about this incident. The failure to obtain the responses from Carl, however, did not prejudice the prisoner as the misconduct report is not being upheld.
QUESTIONS: The Hearing Investigator re-phrased the prisoner's questions so the response was not given in the question itself - in other words, so the questions were not leading. This is appropriate as leading questions are discouraged.
SEE PAGE TWO

PROPERTY DISPOSITION (for contraband see PD 04.07.112)

FINDINGS

Charge No. 1	<input type="checkbox"/> Guilty	<input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code <u>012</u>
Charge No. 2	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____
Charge No. 3	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____
Charge No. 4	<input type="checkbox"/> Guilty	<input type="checkbox"/> Not Guilty	<input type="checkbox"/> Dismissed	Reporting Code _____

DISPOSITION (select one or more) (Toplock & LOP Sanctions End at 6:00 am)

_____ Days of Detention	_____ Begins	_____ Ends	_____ Days Credit
_____ Days Top Lock	_____	_____	_____ Hours Extra Duty
_____ Days Loss of Privileges	_____	_____	\$ _____ Restitution

Misconduct Hearing Report personally handed to Prisoner by Hearing Officer on this date: _____ (Check if Applies) Hearing Report given to Staff Member by Hearing Officer for Delivery to Prisoner this date: 6/25/2013 (Check if Applies)

Date of Hearing 06/25/2013 Name of Staff Member Lt. Knaus

Hearing Officer's Name L. Maki 034	Hearing Officer's Signature 	Date 6/25/13
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CLASS 1 MISCONDUCT


HEARING REPORT – Continuation Page No. 2

(Type of Hearing)

Prisoner Number 192744	Prisoner Name Colvin	Institution LMF	Violation/Notice Date 6/17/13
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REASONS FOR FINDINGS Continued from Page One:

THREAT: On 6/17/13 the Food Steward wrote in his misconduct report against the prisoner that the prisoner "called me over to his table to talk about his meal. Prisoner stated to me with direct eye to eye contact from approx. 2 feet away, "You had better get with Food Leader Carl and teach her to talk to prisoners before I slap her bitch ass in the face." According to the response given by the Food Steward to a question posed by the prisoner, this threat was made "before FSL Carl came out with the menu." Prisoner claims that he did not threaten Carl and requested the video to prove that point. The video is far more consistent with the prisoner's assertion that he had NOT threatened Carl than the Food Steward's claim that the prisoner HAD threatened Carl. The video showed the prisoner talking with someone on the food service line – apparently Carl – when Pederson walked over at 11 58 01. According to the information provided by Pederson this is the time that the prisoner had threatened to slap Carl "bitch ass in the face." Carl then walked over to the prisoner and Pederson 12 seconds later. The fact that she walked over would indicate that she did not feel threatened by the prisoner, although it is possible that she wouldn't have heard the prisoner's threat as the prisoner was talking to Pederson when the threat was supposedly made. What is surprising, if a threat had been made, is that Pederson left Carl with the prisoner 8 seconds later and walked away. If the prisoner had threatened to "slap her bitch ass in the face," it makes absolutely no sense for Pederson not to warn Carl, which apparently he did not do as she remained with the prisoner, or to walk away and leave Carl standing right next to the prisoner. If nothing else, Pederson should have remained as a deterrent to any physical attack on Carl instead of leaving the area. Although staff members are trained to downplay and deescalate threatening situations, they also watch each other's backs. It makes no sense that the Food Steward would leave Carl with the prisoner less than twenty seconds after the prisoner had threatened to slap her. That does not ring true. Prisoner is believed that no threat was made based on the reporting staff member's own actions as evidenced by the video. Charge not upheld.

HEARING OFFICER'S NAME & CMIS CODE (Typed) L. Maki 034	Copy of Hearing Report personally handed to Prisoner by Hearing Officer this date (check if applied) <input type="checkbox"/>
HEARING OFFICER'S SIGNATURE 	Copy of Hearing Report Given to Staff Member By Hearing Officer for Delivery to Prisoner this date (check if applied) x
Date of Hearing 6/25/13	(Name & Clock No. of Staff Member) Lt. Knaus

DISTRIBUTION: White – Institution; Green – Central Office; Canary – Prisoner; Pink – Visitor/Counselor; Goldenrod – Hearing Investigator

