

NONPRECEDENTIAL DISPOSITION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 June 12, 2025*

Decided June 17, 2025

BeforeDIANE S. SYKES, *Chief Judge*MICHAEL Y. SCUDDER, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 24-3245

DESHAWN GARDNER,
*Petitioner-Appellant,*Appeal from the United States District
Court for the Central District of Illinois.*v.*

No. 3:23-cv-03337-CRL

JEREMIAH BROWN, Warden
*Respondent-Appellee.*Colleen R. Lawless,
*Judge.***ORDER**

DeShawn Gardner appeals the denial of his federal habeas challenge to an Illinois prison disciplinary sanction. Because he received due process, we affirm.

Gardner is serving an 85-year prison sentence in Illinois for a gang-related murder. Officials there accused him of two rules violations: participating in “merged”

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

phone calls that connected multiple gang members, *see* 20 ILL. ADMIN. CODE § 504 app. A 310 (banning “three-party calls”); and using “verbiage” that the Illinois Department of Corrections associates with the Black Disciples gang, *see id.* § 504 app. A 205 (banning gang “organizational activities” and “signs”). To prepare for his disciplinary hearing, Gardner sought access to phone records, but that request was denied without explanation. Later, during judicial review of Gardner’s disciplinary sanction, prison officials explained the security-related reasons for denying his request for phone records. *See Ponte v. Real*, 471 U.S. 491, 497 (1985) (authorizing delayed explanation of this kind).

At the disciplinary hearing, Gardner submitted a written response and a statement from a witness who offered a non-gang-related reason for the calls. *See Wolff v. McDonnell*, 418 U.S. 539, 563–66 (1974) (outlining constitutional requirements for prison discipline); *Superintendent, Mass. Corr. Inst., Walpole v. Hill*, 472 U.S. 445, 454 (1985) (same). But prison investigators reported that they listened to a phone call Gardner placed to a gang leader who merged the call with other gang members, and that Gardner referred to gang members as “B,” which is considered an identifier for Black Disciples affiliates.

Gardner was found guilty of the rules violations and sanctioned with the loss of one year of good-conduct credit. He then sought a common-law writ of certiorari, an Illinois state-court vehicle for judicial review of prison discipline. *See Gardner v. Hough*, 2022 IL App (4th) 210186-U, ¶ 12 (citing *Fillmore v. Taylor*, 137 N.E.3d 779, 796 (Ill. 2019) (identifying certiorari as vehicle)). He claimed that denying access to recorded phone calls without explanation deprived him of due process. As we’ve just noted, however, prison officials supplied a declaration from a lieutenant who supervises the prison’s intelligence team. He attested that the team monitors phone calls for gang activity, and that allowing prisoners to access recordings or transcripts could reveal the team’s investigative methods and thus hamper their efforts to control prison violence. Gardner responded that the lieutenant’s declaration was false. He also attached records from prior, unrelated disciplinary hearings to suggest that in other cases, the team had allowed various prison employees to access similar recordings despite the lieutenant’s assertion about the intelligence team’s exclusive access. The state trial judge granted the officials’ motion to strike Gardner’s exhibits as irrelevant and entered summary judgment in their favor.

The Illinois Appellate Court affirmed. *Gardner*, 2022 IL App (4th) 210186-U. Citing *Wolff* and *Real*, the court reasoned that the lieutenant’s declaration gave sufficient

institutional-safety reasons for denying access to recorded calls, and that the trial judge was right to disregard the unrelated records Gardner tried to introduce. *Id.* ¶¶ 13–15. The state supreme court denied further review.

Gardner then sought a federal writ of habeas corpus under 28 U.S.C. § 2254, reasserting his claim about the transcripts and contesting the state-court evidentiary rulings. But the district judge denied the petition, reasoning that the state appellate court reasonably applied *Wolff* and *Real* to determine that the lieutenant's declaration adequately justified the decision to deny access to recorded calls. The judge also explained that Gardner's arguments about the evidentiary rulings rested on state law and were not grounds for habeas review.

Gardner appealed. At the threshold, the respondent warden asks us to reconsider *Walker v. O'Brien*, 216 F.3d 626, 637–38 (7th Cir. 2000), which holds that state prisoners challenging prison disciplinary sanctions in federal habeas proceedings are not required to obtain a certificate of appealability under 28 U.S.C. § 2253(c)(1)(A) before appealing an adverse district-court decision. We decline the invitation. We have reexamined and upheld *Walker* before, see *Grandberry v. Kever*, 735 F.3d 616, 618–19 (7th Cir. 2013), and the warden does not raise arguments based on any developments postdating *Grandberry*. We turn, then, to Gardner's claims.

Because a state court denied Gardner's due-process claim on the merits, federal review is constrained by § 2254(d), which requires Gardner to show either that the Illinois Appellate Court contradicted or unreasonably applied clear Supreme Court precedent, or that its factual determinations were unreasonable. See *Eichwedel v. Chandler*, 696 F.3d 660, 671 (7th Cir. 2012) (applying § 2254(d) to Illinois court decision on prison discipline). We begin with the phone recordings. Prisoners facing the loss of good-conduct credits have a limited right to present documentary evidence. *Wolff*, 418 U.S. at 557, 566. The limitation is that officials may bar access to evidence if they provide an explanation "logically related to preventing undue hazards to 'institutional safety or correctional goals.'" *Real*, 471 U.S. at 497 (quoting *Wolff*, 418 U.S. at 566). The explanation need not be given at the time of the disciplinary hearing but may instead be withheld until state-court litigation. *Id.*

Here, the state-court denial of Gardner's due-process claim did not contradict or unreasonably apply Supreme Court precedent, nor did it rest on any unreasonable fact-finding. Under *Real*, waiting to provide the lieutenant's declaration in court proceedings was permissible. And the lieutenant's explanation was logically related to prison safety: Gardner's access to recorded calls could reveal the intelligence team's

methods for detecting gang activity on prison phones. For example, the warden tells us, close review of the calls could help Gardner discern which words (besides the ones referenced in his disciplinary charge) alerted investigators that he might be engaging in gang activity, and Gardner could then use that information to help gang affiliates change their practices and avoid future detection. That specific example from the federal-court briefing squares with the general reasoning of the state courts here. Because it was reasonable for the state appellate court to conclude that access to the recorded calls might reveal too much about prison surveillance methods, § 2254(d) bars relief.

Gardner also asserts that no evidence supported the charges and that the disciplinary hearing generally failed to provide due process. But as the warden points out, Gardner raised this argument for the first time in federal court, so it is procedurally defaulted. *See* 28 U.S.C. § 2254(b); *McAtee v. Cowan*, 250 F.3d 506, 508–09 (7th Cir. 2001) (Illinois prisoners must exhaust claims about revocation of good-conduct credits by completing appellate process in Illinois courts). And it is meritless in any event: The evidence of guilt included investigators’ reports that Gardner used gang-related language on a three-way call with known gang members, and the hearing did not otherwise fail to comply with *Wolff*. *See* 418 U.S. at 563–66.

Finally, Gardner claims that the state court erred in its evidentiary rulings—specifically, by considering the lieutenant’s declaration and striking Gardner’s unrelated disciplinary records. But alleged violations of state evidentiary law lie outside the scope of federal habeas review, which concerns itself only with violations of federal law. *See Estelle v. McGuire*, 502 U.S. 62, 67–68 (1991).

AFFIRMED