NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

ROBERT WILLIAMS,
Petitioner

v.

FEDERAL BUREAU OF PRISONS,
Respondent

2025-2081

Petition for review of an arbitrator's decision in No. FMCS 220302-03902 by Walt De Treux.

Decided: September 14, 2026

ROBERT LINVEL WILLIAMS, III, Morgantown, WV, pro se.

DANIEL FALKNOR, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for respondent. Also represented by PATRICIA M. MCCARTHY, CORINNE ANNE NIOSI, BRETT SHUMATE.

Before STOLL and STARK, *Circuit Judges*, and BARKER, *District Judge*.[1]

PER CURIAM.

Robert L. Williams appeals the decision of an arbitrator sustaining his removal from employment with the Federal Bureau of Prisons ("BOP"). We affirm.

I

Mr. Williams was employed as a senior correctional officer at the Federal Correctional Complex in Hazelton, West Virginia ("FCC Hazelton"). In 2017, the Department of Justice's Office of the Inspector General ("OIG") began investigating him for various types of misconduct.

On August 24, 2021, BOP issued Mr. Williams a Notice of Proposed Removal ("Notice") based on several violations of BOP rules and regulations, including: (1) possession of contraband on prison premises; (2) giving gifts and money to inmates and an inmate's relatives; (3) prohibited sexual contact and communication with inmates; and (4) failure to report observed misconduct. On December 3, 2021, the warden of FCC Hazelton, acting as the deciding official, sustained the Notice's charges as "fully supported by the evidence." Appx 170.[2] As a result, Mr. Williams was terminated.

On March 1, 2022, Mr. Williams exercised his rights under the master agreement between his union and the BOP and filed a grievance with an arbitrator. *See Williams v. Fed. Bureau of Prisons*, 72 F.4th 1281, 1283 (Fed. Cir.

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[1] Honorable J. Campbell Barker, District Judge, United States District Court for the Eastern District of Texas, sitting by designation.

[2] "Appx" refers to the appendix submitted with Mr. Williams' opening brief. ECF No. 12.

2023) ("A federal employee seeking to challenge disciplinary action by her employing agency may either appeal her claim to the Merit Systems Protection Board (MSPB) or take her claim to an arbitrator through a negotiated grievance procedure created by collective bargaining agreement."). In March 2025, the arbitrator conducted two days of evidentiary hearings, at which 11 witnesses testified. On July 10, 2025, the arbitrator issued a decision, determining that BOP had proven most, but not all, of the charges. Hence, the arbitrator upheld Mr. Williams' removal and denied his grievance.

Mr. Williams timely filed this appeal. We have jurisdiction under 28 U.S.C. § 1295(a)(9) and 5 U.S.C. §§ 7703(b)(1), 7121(f).

II

"According to 5 U.S.C. § 7121(f), this court reviews the arbitrator's decision in the same manner as decisions of the Merit Systems Protection Board." *Brook v. Corrado*, 999 F.2d 523, 526 (Fed. Cir. 1993) (internal quotation marks omitted). Our review is "limited," *Cheney v. Dep't of Just.*, 479 F.3d 1343, 1348 (Fed. Cir. 2007), requiring that we uphold the arbitrator's decision "unless it is 'arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law' or 'unsupported by substantial evidence.'" *Jenkins v. Merit Sys. Prot. Bd.*, 911 F.3d 1370, 1373 (Fed. Cir. 2019) (quoting 5 U.S.C. § 7703(c)). "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *McEntee v. Merit Sys. Prot. Bd.*, 404 F.3d 1320, 1325 (Fed. Cir. 2005) (internal quotation marks omitted). The petitioner bears the burden of demonstrating error in the arbitrator's decision. *See Jones v. Merit Sys. Prot. Bd.*, 98 F.4th 1376, 1380 (Fed. Cir. 2024).

III

On appeal, Mr. Williams' principal argument is that the arbitrator's decision was not supported by substantial evidence. We disagree.

First, Mr. Williams contends that BOP failed to prove Specification B of the charge of possession of contraband, because the evidence does not show that he brought tobacco into FCC Hazelton and provided it to an inmate. Even if Mr. Williams were correct (a proposition we reject in the following paragraph), he fails to challenge the arbitrator's decision to sustain Specification A of the same charge (bringing prohibited tools and knives into the premises), which is a standalone basis to affirm the arbitrator's decision to sustain the BOP's contraband charge. *See Burroughs v. Dep't of Army*, 918 F.2d 170, 172 (Fed. Cir. 1990) ("[W]here more than one event or factual specification is set out to support a single charge . . . proof of one or more, but not all, of the supporting specifications is sufficient to sustain the charge.").

Mr. Williams next disputes the arbitrator's finding that he impermissibly gave something of value (i.e., money and tobacco) to inmates, and the related charges of improper communication and failure to report. Mr. Williams contends that the arbitrator erred "by relying on the investigation's collection of circumstantial evidence." Open. Br. at 6. It is well-settled, however, that "[c]ircumstantial evidence is just that – evidence. It establishes that a given fact is more likely to be true than one would otherwise believe in the absence of the evidence." *Medtronic, Inc. v. Teleflex Innovations S.a.r.l.*, 70 F.4th 1331, 1340 (Fed. Cir. 2023). "Nor is circumstantial evidence second-class to direct evidence," *id.*, and we will not "reweigh the evidence on appeal," *Knox v. Dep't of Just.*, 125 F.4th 1059, 1066 (Fed. Cir. 2025). Substantial evidence, hence, supports the arbitrator's finding.

Third, Mr. Williams asserts that the arbitrator erred in sustaining three of the Notice's specifications of prohibited sexual relationships with inmates. To prove this charge, BOP "relie[d] primarily on the statements and testimony of the inmates" presented at the evidentiary hearing. Appx. 22. The arbitrator found that the witnesses "had no reason to lie" and "had nothing to gain from fabricating," and, therefore, credited their testimony. Appx 23-24. We have no basis to question the arbitrator's credibility determinations. *See Holmes v. U.S. Postal Serv.*, 987 F.3d 1042, 1047 (Fed. Cir. 2021) ("[C]redibility determinations, which are virtually unreviewable on appeal . . . will not be disturbed unless inherently improbable, discredited by undisputed evidence, or contrary to physical facts.") (internal citation and quotation marks omitted). Thus, the arbitrator's decision with respect to this charge is supported by substantial evidence.

Finally, Mr. Williams raises various procedural arguments, including that he was prejudiced by the protracted duration of the investigation, that the arbitrator relied on a charge not contained in the Notice, and that the arbitrator failed to adjust his penalty even while sustaining fewer than all of the charges contained in the Notice. We are not persuaded. Mr. Williams fails to articulate any prejudice he suffered by the delay. *See Villareal v. Bureau of Prisons*, 901 F.3d 1361, 1366 (Fed. Cir. 2018) ("For delay to vitiate an agency decision, the employee must show that the delay was harmful to his or her defense."). Further, Mr. Williams overlooks that the arbitrator, rather than mistakenly relying on the unspecified charge of "sexual assault," used this term to refer to nonconsensual sexual misconduct that formed part of the prohibited sexual contact charge. Lastly, based on the totality of evidence – including the warden's testimony that he would have imposed the same discipline even if BOP failed to prove some of the charges – the arbitrator had authority to find that Mr. Williams' termination was warranted, notwithstanding that fewer than

all of the charges were sustained. *See Williams*, 72 F.4th at 1284 ("When an arbitrator sustains fewer than all of the agency's charges, the arbitrator may mitigate to the maximum reasonable penalty for the sustained charges unless the agency has indicated it desires a lesser penalty be imposed on fewer charges.") (internal quotation marks omitted).

IV

We have considered Mr. Williams' remaining arguments and find they lack merit.[3] Accordingly, for the foregoing reasons, we affirm the arbitrator's decision.

AFFIRMED

COSTS

Each party to bear its own costs.

[3] This includes arguments submitted by Mr. Williams in his Memorandum in Lieu of Oral Argument. ECF No. 26.