

NONPRECEDENTIAL DISPOSITION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 January 4, 2024*

Decided January 8, 2024

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

Nos. 22-2848 & 23-2194

RICHARD E. HULL,
Plaintiff-Appellant,

v.

CHRISTINA COOKE, et al.,
Defendants-Appellees.

Appeals from the United States District
Court for the Southern District of Indi-
ana, Indianapolis Division.

No. 1:20-cv-02774-JRS-TAB

James R. Sweeney II,
Judge.

ORDER

Richard Hull, an Indiana prisoner, sued prison officials under 42 U.S.C. § 1983 for allegedly violating his constitutional rights during disciplinary proceedings against him. The district court granted the defendants' motion for summary judgment and then denied Hull's motion to alter or amend the judgment. We affirm these decisions. Some

* We have agreed to decide the cases 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).

evidence supported the conclusion that Hull was guilty of using a controlled substance, and Hull lacked any evidence that the hearing officer inflated the amount of restitution and otherwise deprived Hull of a fair hearing out of bias.

In April 2019, Hull was transported by ambulance from Pendleton Correctional Facility to a hospital to be treated for a suspected drug overdose. On the way, paramedics administered Narcan, as had nurses at the prison. A toxicology report later showed that when Hull arrived at the emergency department, his urine was positive for opiates, amphetamines, and methamphetamines.

Five days after the hospital trip, a correctional officer filed a Report of Conduct, charging Hull with possession or use of controlled substances. Hull received a copy of the toxicology report, the conduct report, and a notice of disciplinary hearing, which informed him of his rights to call witnesses (or obtain their statements) and to present physical evidence. Hull denied the charge but did not request any evidence.

At the disciplinary hearing, held by Sergeant Christina Cooke, Hull again denied guilt. Among the evidence against him were the conduct report, the toxicology report, and a witness statement from a correctional officer recalling that on the way to the ambulance, Hull had said that “someone had given him a pill (unauthorized Substance) and he took it.” In his defense Hull argued that, under prison regulations, the toxicology report could not be used as evidence against him because the urine sample had not been kept in a secured location and was not tagged with an evidence card. He also argued that the conduct report was issued too late under the applicable regulation.

Cooke found Hull guilty of use of a controlled substance. She explained that Hull’s medical emergency overrode Indiana Department of Correction Policy and Administrative Procedure Disciplinary Code for Adult Offenders, no. 02-04-101 § V(C)(7), which requires officials to complete a conduct report within 24 hours of an incident “whenever possible.” Further, the conduct report had been delayed pending receipt of the toxicology report, which arrived four days after the incident.

Cooke imposed penalties including restitution of \$1,302.10 for “medical bills/ambulance.” Hull appealed, reiterating his arguments about the chain of custody and the late conduct report. Aaron Smith, an administrator, denied the appeal. Hull then appealed to the final reviewing authority, and another official, Sarah Haefner, agreed with Smith that there were no procedural errors.

Having exhausted his administrative remedies, Hull sued Cooke, Smith, and Haefner, alleging that they violated his constitutional rights during the disciplinary hearing and appeals. The district court screened Hull's complaint, see 28 U.S.C. § 1915A, allowing him to proceed only on his claims against the defendants in their individual capacities for imposing a restitution order without due process.

The district court later granted the defendants' motion for summary judgment, determining that, with respect to the imposition of restitution, Hull had received the process to which he was entitled. The court explained that Hull had no evidence supporting his assertions that he had not used an unauthorized substance and that Cooke was a biased decisionmaker. Even if Cooke had miscalculated Hull's restitution or stated incorrectly that an emergency justified departing from typical procedures, the court continued, these actions did not demonstrate bias against Hull. The court also noted that Hull had failed to challenge the amount of restitution in his administrative appeals and therefore had not exhausted available remedies as to this argument. Finally, the court determined that Cooke did not deprive Hull of the opportunity to call witnesses and present evidence; rather, he had not properly asked to do so.

Hull timely moved to alter or amend the district court's judgment under Federal Rule of Civil Procedure 59(e). He argued that he was overcharged for restitution, and in subsequent filings, he produced an email in which Smith had acknowledged that, weeks after the hearing, there was support for only \$523 in medical costs. According to Hull, this was new evidence of Cooke's bias, because she had ordered him to pay double that. Finally, Hull argued that he never had the opportunity to challenge the amount of restitution in his administrative appeals process because he did not have evidence that he was overcharged until discovery in this lawsuit.

The district court denied the motion, concluding that Hull did not link the alleged miscalculation of restitution to any bias against him. The court cited other emails in the record, in which Cooke and Smith state that the amount of restitution would be adjusted as Hull's medical bills came in. The court observed that Indiana Department of Correction Policy and Administrative Procedure Disciplinary Code for Adult Offenders, no. 02-04-101 § IX(E)(3), allows a hearing officer to "assess a medical expense restitution sanction up to an estimated amount" when it is not possible to determine the exact amount at the time of the hearing. Because the amount was subject to later refinement, the court concluded that Hull received due process.

On appeal, we generously construe Hull's pro se brief, see *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), in which he argues that the defendants deprived him of due

process because (1) they never established a chain of custody for his urine sample; (2) there was insufficient evidence of his guilt without the tainted toxicology report; and (3) Cooke was biased. We review the decision on summary judgment de novo and examine the record in the light most favorable to Hull, drawing reasonable inferences in his favor. See *Donaldson v. Johnson & Johnson*, 37 F.4th 400, 405 (7th Cir. 2022).

We will assume that Indiana prisoners have a property interest in the funds in their trust accounts, see *Campbell v. Miller*, 787 F.2d 217, 222 (7th Cir. 1986), and that Hull's interest extends to any funds beyond the amount the prison paid because of his rule violation, see IND. CODE § 11-11-5-3 ("[r]estitution" is potential sanction for violations). He therefore had a right, protected by the Constitution, to due process when he was assessed restitution. *Wolff v. McDonnell*, 418 U.S. 539, 556 (1974). Due process requires, among other things, "some evidence" supporting the imposition of discipline. See *Superintendent, Mass. Corr. Inst., Walpole v. Hill*, 472 U.S. 445, 455 (1985); *Chambers v. Ciolli*, 19 F.4th 984, 986 (7th Cir. 2021). This standard is satisfied if "there is any evidence in the record that could support the conclusion reached." *Eichwedel v. Chandler*, 696 F.3d 660, 675 (7th Cir. 2012) (quoting *Hill*, 472 U.S. at 455–56).

Some evidence supports Cooke's finding that Hull used a controlled substance, contrary to his argument that the evidence was insufficient because the defendants did not establish a chain of custody for the urine sample used in the toxicology report. Evidentiary standards are looser in prison disciplinary hearings, see *Walker v. O'Brien*, 216 F.3d 626, 637 (7th Cir. 2000), and Hull supplied no reason to believe that anything unusual happened to the urine sample taken at the hospital. The sample was tested only minutes after it was collected, and the report contains Hull's identifying information and lists the substances for which he was tested. Thus, using the toxicology report as evidence did not violate Hull's rights. See *Webb v. Anderson*, 224 F.3d 649, 652–53 (7th Cir. 2000). And the toxicology report, along with the witness statement and the conduct report, easily add up to some evidence of Hull's violation.

Hull's argument that he was deprived of his right to an impartial decisionmaker falters for lack of evidence. He presented no reason Cooke might have to dislike him, and no evidence of any conflict of interest. On appeal he centers his argument around the defendants' failure to advise him of evidence he considers exculpatory—an email from a correctional officer about Hull's hospitalization. According to the email, Hull said that someone had given him a pill and he took it. Unlike the witness statement introduced at the hearing, it does not describe the "pill" as an "unauthorized Substance," and Hull says this supports his innocence. We disagree. Although a prisoner facing

discipline generally is entitled to the disclosure of material, exculpatory evidence, he is not entitled to evidence that is “irrelevant or repetitive.” *Scruggs v. Jordan*, 485 F.3d 934, 939–40 (7th Cir. 2007). Here, the email Hull cites is not exculpatory. There is no dissonance between “pill” and “unauthorized substance” because any pill can be an unauthorized substance for a prisoner depending not only on its chemical makeup, but when and where he possesses it. And the officer who said “pill” would not have known those circumstances before the hospital trip. Therefore, failure to disclose this email before the disciplinary hearing does not meet the “high” standard we apply to assertions of impermissible bias. See *Piggie v. Cotton*, 342 F.3d 660, 666 (7th Cir. 2003).

Although Hull’s due-process arguments do not carry the day, we pause to note that the district court, when denying Hull’s motion for reconsideration, might have been mistaken in stating that the hearing officer fully complied with the relevant policy. It seems that the final amount of restitution Hull was charged exceeded the amount ordered at the disciplinary hearing, and we question whether the policy permits upward adjustments after the fact, even as more information becomes available. The policy can be read to provide that the amount assessed at the hearing is the upper limit on restitution:

If it is not possible to determine the amount of medical restitution at the time of hearing due to ongoing medical treatment or a delay in receiving the medical bills, the Disciplinary Hearing Officer may assess a medical expense restitution sanction *up to* an estimated amount.

Indiana Department of Correction Policy and Administrative Procedure Disciplinary Code for Adult Offenders, no. 02-04-101 § IX(E)(3) (emphasis added). But even if that interpretation is correct, Hull’s federal claim is no stronger: A state actor’s violations of the disciplinary code or other state law does not amount to a violation of federal due process. See *Linear v. Vill. of Univ. Park*, 887 F.3d 842, 844 (7th Cir. 2018).

Finally, Hull argues that the court erroneously denied his post-judgment motion because a *Pavey* hearing was needed to determine whether he had administratively exhausted his argument about the amount of restitution. See generally *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008). We review the denial for an abuse of discretion. *Cincinnati Life Ins. Co. v. Beyrer*, 722 F.3d 939, 955 (7th Cir. 2013). A Rule 59(e) motion must introduce new evidence or demonstrate a manifest error of law or fact. *Id.* at 954–55. Hull did not establish any error in the court’s observation that he failed to challenge the accuracy of the restitution amount in the grievance process. Hull has made clear that he did not

receive any proof of the medical expenses before discipline was imposed; he therefore could have timely raised his argument that the amount was not substantiated. Further, the supposed overcharge and failure to remedy it do not support his argument that the defendants were biased against him, even if a mistake was made. Without more, the adjudicators are entitled to a presumption of honesty and integrity see *Piggie*, 342 F.3d at 666. Finally, because the district court ruled that Hull's bias argument could not succeed on the merits even if he had properly exhausted it, there was no need for a *Pavey* hearing. See *Wagoner v. Lemmon*, 778 F.3d 586, 591 (7th Cir. 2015).

AFFIRMED