

In the Matter of Arbitration Between

State of Ohio, Department of Rehabilitation and
Correction, Toledo Correctional Institution,
Employer

and

OCSEA, Local 11, AFSCME, AFL-CIO,
Union

Grievance of Patrick Lawrence

CASE NO: DRC 2025-00568-03

Arbitrator Sarah R. Cole

Opinion and Award

Introduction

This arbitration arises from the Ohio Department of Rehabilitation and Correction's (ODRC or Employer) decision to remove Correctional Officer Patrick Grievant following the suicide of incarcerated person (ICP) Walker at the Toledo Correctional Institution. The Union, OCSEA, grieved the removal, contending that the Employer lacked just cause. The Employer maintains that the Grievant violated multiple disciplinary rules, including failure to act, failure to follow orders, uncooperative behavior with a person under the supervision of the Department, failure to activate his body-worn camera, and abuse of an ICP, among others. An arbitration hearing took place on October 9, 2025, at OCSEA headquarters in Columbus, Ohio. Philip Rader, LRO 3, Beverly Dean, LRO 3, and Cullen Jackson, LRA of the Office of Collective Bargaining, represented the Employer. Ryan Ochmanek and Robert Peppers, OCSEA union

representatives, represented the Grievant, Patrick Lawrence. The parties stipulated that the matter was properly before Arbitrator Cole.

Issue

The parties stipulated that the issue in this grievance is: Was the Grievant issued a removal for just cause? If not, what shall the remedy be?

Statement of Facts

Officer Patrick Lawrence has worked as a Correctional Officer for ODRC at the Toledo Correctional Institution since September 30, 2019. On May 29, 2024, the Grievant conducted a routine security round in the Transitional Programming Unit (TPU). Video footage from the institution's overhead cameras shows that he stopped briefly at ICP Walker's cell at approximately 9:50 a.m. Shortly thereafter, Walker died by suicide. Two inmates housed in adjacent cells—Tyler Stone and Harvey Lowry—reported overhearing Walker tell Officer Grievant that he was suicidal and wanted to be placed on suicide watch. Both inmates stated that Officer Grievant responded with indifference or hostility, allegedly saying 'I don't give a fuck, kill yourself' (Lowry) or, in response to Walker's statement that he was going to kill himself, 'yeah, me too, I don't care.' (Stone) Shortly before he died by suicide, Walker sent a message (kite) via the prison's electronic system. In that message, he stated that he had informed Grievant that he was suicidal and needed to be placed on watch and that the Grievant that he did not care "so I proceeded to hang myself. Please deck [sic] camera."

Following the incident, and on the same day, Grievant made several comments about Walker's death, including 'he's dead, who cares.' He attributed his apparent indifference to

Walker's death to emotional distress, and claimed that he was attempting to communicate to others that he simply did not wish to discuss Walker's suicide.

David Schultz, the investigator assigned to the incident, verified that it was indeed Walker who sent the message. Schultz also reviewed the video footage and confirmed that Grievant's body-worn camera was turned off during the round in which the conversation above took place. As part of the investigation, the Employer requested that both Stone and Lowry undergo Computer Voice Stress Analysis (CVSA) tests. The tester, Jason Jones, and a subsequent independent cold call review, concluded that the test results indicated no deception in the inmates' accounts.

For his part, Grievant denied that the interaction with Walker occurred and stated that he did not recall stopping at Walker's cell. He did not know Walker, and had had only minor interactions with Lowry and Stone. He emphasized that he is a six-year employee of the Department of Corrections, with no discipline on his record. While employed, Grievant completed numerous trainings, including suicide prevention training. He explained that he wasn't sure why he had his BWC off, but that he may have used the bathroom right before the round and forgotten to turn it back on prior to beginning the round. Other officers have violated the ODRC's BWC policy, but have not received discipline

The Hearing Officer assigned to the case found the evidence insufficient to support removal, particularly questioning the reliability of the CVSA tests. The Warden, Mike Swartz, overruled the Hearing Officer's recommendation, citing the totality of the evidence, including Walker's suicide message, corroborating inmate statements, and Grievant's failure to activate his body-worn camera.

Position of the Union

The Union argues that the Employer failed to conduct a thorough and unbiased investigation into the events surrounding the suicide of ICP Walker. It contends that the case against Grievant is built on speculation, assumptions, and flawed evidence, rather than clear and convincing proof.

The Union challenges the credibility of the inmate witnesses and the investigative process. It asserts that ICP Lowry only identified Grievant after Schultz prompted him to do so, and that ICP Stone admitted he did not know the regular officers in the unit, undermining his ability to reliably identify Grievant. The Union also points out that another round was conducted at 9:21 a.m. by two different officers, and that it is more likely Walker spoke to them, not Grievant.

The Union also questions the reliability of the CVSA tests. It noted that ICP Stone was not drug tested prior to the exam and had tested positive for drugs both some time before and some time after the CVSA administration. The Union also emphasized that the Employer did not share with the Union the charts used to interpret the CVSA results, and that Jason Jones, the tester, acknowledged that perception could influence results.

The Union further argues that the Employer engaged in disparate treatment by disciplining only Grievant for BWC violations, while other officers who also failed to activate their cameras were not disciplined. It contends that the Employer selectively enforced rules to ensure Grievant was removed, stacking charges to reach a removal-level offense.

The Union criticizes the use of BWC footage showing Grievant's comments after the incident, arguing that these statements were taken out of context and were not part of the incident itself. It also notes that the Employer failed to investigate the time period before the suicide, which could have revealed interactions with other officers.

Ultimately, the Union asserts that the Employer has not met the burden of proof, let alone the higher standard of "beyond a reasonable doubt," which it argues is appropriate given the gravity of the allegations. It maintains that the evidence does not support the Employer's conclusion that Grievant was the officer who failed to act on Walker's suicidal statements and that the investigation was incomplete and biased. The Union requests that the grievance be granted in full, with Grievant reinstated to his position, awarded back pay, restored benefits, and made whole in every respect.

Position of the Employer

The Employer maintains that Grievant violated multiple institutional rules and that his removal was justified. The Employer relies heavily on Walker's suicide message, which it characterizes as a contemporaneous and credible account of the interaction between ICP Walker and the Grievant. It argues that the inmates' statements are consistent with each other and Walker's account, and are also corroborated by CVSA results. The Employer further contends that Grievant's failure to activate his BWC violated departmental policy and prevented verification of his account. The Grievant's post-incident comments, according to the Employer, reflect a lack of empathy and support the allegation that he responded inappropriately to Walker. The Employer asserts that Grievant's failure to act on Walker's request violated multiple disciplinary rules and that removal was appropriate.

Relevant Disciplinary Rules

The Employer cited several rules in support of the removal. Rule 7 is “failure to follow post orders, administrative regulations, policies, or written or verbal directives.” Rule 8 is “failure to carry out a work assignment or the exercise of poor judgment in carrying out an assignment.” Rule 12B is “uncooperative behavior or discourteous treatment of the public, volunteers, contractors, or any individual under the supervision of the Department . . .” Rule 18 prohibits “threatening, intimidating, or coercing. . . any individual under the supervision of the Department.” Rule 24 prohibits “interfering with, failing to cooperate in, or lying in an official investigation or inquiry.” Rule 38 prohibits “any act, or failure to act . . . which constitutes a threat to the security of . . . any individual under the supervision of the Department . . .” Rule 41 prohibits “unauthorized actions or a failure to act that could harm any individual under the supervision of the Department.” Rule 42 prohibits “physical abuse of any individual under the supervision of the Department.” And Rule 44 which prohibits “threatening, intimidating, coercing, or use of abusive language toward any individual under the supervision of the Department.” Violation of any of the following rules permits removal on a first offense: 18, 24, 38, 41, 42, or 44.

Standard of Review

In disciplinary cases involving removal, the Employer bears the burden of proving just cause for the removal. The customary standard in labor arbitration is a preponderance of the evidence. However, where the allegations essentially involve conduct of a criminal nature or carry a significant stigma, some arbitrators require clear and convincing evidence. In this case, the allegations do not involve conduct of a criminal nature nor do they carry a significant stigma. Thus, the use of a heightened standard is unwarranted.

Because the arbitration hearing is a full evidentiary hearing, the arbitrator need not defer to the conclusions of either the Hearing Officer or the Warden. While their findings may be considered, the arbitrator must independently assess the credibility of witnesses and the weight of the evidence presented at arbitration. Furthermore, the arbitrator is not required to find that every alleged rule violation occurred in order to uphold the removal. If the evidence supports a violation of any one rule that independently justifies removal, the grievance may be denied.

Opinion

The central issue in this case is whether the Employer has met its burden of proving, by a preponderance of the evidence, that Grievant engaged in misconduct justifying his removal. This case turns on the reliability of inmate accounts, as well as the CVSA tests. In addition, the arbitrator must consider the impact of Grievant's decision to turn off his BWC, depriving the fact-finder of the best available evidence to evaluate what transpired.

The Employer's case rests on several key pieces of evidence. First, the video footage confirms that the Grievant stopped at Walker's cell during his round, which aligns with the timing of the alleged interaction. Second, Walker sent a suicide message shortly before his death, stating that he had informed Grievant of his intent to commit suicide and stating that the Grievant responded dismissively. Investigator Schultz verified that ICP Walker sent the message, and it is consistent with the accounts the inmates in adjacent cells provided at the time of the incident. ICP Walker's last words are a compelling piece of evidence. Even without additional support, and in the absence of the BWC footage, the arbitrator could uphold the removal based on this piece of evidence alone because it establishes a violation of Rule 38, which prohibits any failure to act that constitutes a threat to the security of any individual under the supervision of the

Department as well as a violation of Rule 41, which prohibits a failure to act that could harm any individual under the supervision of the Department. But there is additional supportive evidence.

The inmates from the two cells adjacent to Walker, Tyler Stone and Harvey Lowry, both reported, in writing, that they overheard Walker inform Grievant that he was suicidal and wanted to be placed on suicide watch. They also reported that Grievant responded with indifference or hostility. Although they were not direct participants in the conversation, their proximity to Walker's cell and the consistency of their accounts lend credibility to their statements. The Union notes that their recollections were not identical. The Arbitrator does not find the differences between their accounts significant, as the differences were minor and the inmates' recollections were consistent with each other as well as with ICP Walker's account of the exchange.

Both Stone and Lowry underwent CVSA tests, the results of which indicated no deception. According to Jason Jones, the CVSA operator, the CVSA test is 96.4% accurate. The Union noted that the two accounts were not entirely consistent, nor were they identical to ICP Walker's statements or the inmates' previous statements. Jones testified that it is not unusual for test takers to recall incidents somewhat differently than another witness. The Union provided no evidence that either Stone or Lowry received any benefit from their statements or willingness to testify at the arbitration hearing. In fact, Lowry testified despite expressing that he feared retaliation.

Finally, the best evidence of what occurred, the Grievant's Body Worn Camera footage, was not available because the Grievant turned the BWC off or placed it in sleep mode. While it would be preferable to rely on that footage, the case must turn on the remaining evidence, to determine the propriety of Grievant's removal.

As noted above, the Union challenges the witnesses' credibility and the reliability of the CVSA tests, citing Stone's previous drug use (positive test in mid-July and another twelve days after the CVSA test). In addition, the Union emphasized that Lowry only identified Grievant after the investigator prompted him to do so, and that Stone admitted he did not know the regular officers in the unit. The Union further contends that different officers conducted another round earlier, at 9:21 a.m., at that Walker may have spoken to them instead.

Although the Union was able to point out certain minor weaknesses in the Employer's evidence, the Arbitrator does not find that these issues undercut the core facts the Employer established. The shortcomings identified are too insubstantial to overcome the preponderance of evidence supporting the Employer's position. The CVSA operator, Jason Jones, stated that earlier drug use does not typically impact the results of the test and that neither ICP appeared impaired at the time the CVSA test was administered. And even if Lowry's testimony and the CVSA analysis are ignored, the Arbitrator finds that the totality of the remaining evidence, ICP Walker's contemporaneous statement through his kite, when considered together with the video evidence establishing that the Grievant stopped at the cell for about ten seconds, and the lack of BWC evidence—supports the Employer's version of events.

In terms of affirmative proof, Grievant testified that the interaction did not occur and that he does not recall stopping at Walker's cell. He also suggests that ICP Walker misidentified him, and that it was likely one of the officers who rounded at 9:21 a.m. who made the alleged insensitive comments. Finally, Grievant testified that because others have not been disciplined for failure to have their BWC on, that disciplining him for that infraction is discriminatory.

The existing video footage contradicts Grievant's claim that he did not stop at the cell. Nor does speculation that Walker misidentified him move the needle in his direction as Walker, and two other inmates, identified Grievant as the officer who made the remarks. Finally, the Arbitrator finds that it is unnecessary to base the removal on violation of the BWC policy as the dominant rule violations, the violations that justify removal here, are the violations of Rules 38 and 41. The Arbitrator acknowledges the Union's concerns about selective enforcement and reliance on CVSA results, but finds that the Employer's decision was based on the totality of the evidence, not solely on the CVSA results or BWC violations.

Award

The Employer has established just cause for the removal of the Grievant. The Employer did not violate the parties' collective bargaining agreement in removing the Grievant from his position of employment. Accordingly, the grievance is denied.

Date: November 21, 2025

A handwritten signature in black ink, appearing to read "Sarah Cole", is written over a horizontal line.

Arbitrator Sarah R. Cole