

NONPRECEDENTIAL DISPOSITION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 September 2, 2022*
Decided January 10, 2023

Before

DIANE P. WOOD, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 22-1205

DAVID PANNELL,
Petitioner-Appellant,

Appeal from the United States District
Court for the Northern District of Indiana,
South Bend Division.

v.

No. 3:21-CV-951-RLM-MGG

WILLIAM HYATTE,
Respondent-Appellee.

Robert L. Miller, Jr.,
Judge.

ORDER

Indiana prisoner David Pannell petitioned for a writ of habeas corpus under 28 U.S.C. § 2254, arguing that his rights were violated in a prison disciplinary proceeding. A hearing officer found him guilty of possessing another inmate's property, costing him good-time credit. Pannell claimed that he was deprived of liberty without due process because, among other reasons, he did not receive proper notice of the charge and was

* 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).

denied access to evidence at the hearing. The district court denied his petition, and we affirm.

Staff at Miami Correctional Facility searched Pannell's cell, and on top of his property box, a correctional officer found two legal documents in another inmate's name. When asked about the papers, Pannell said he was unsure what the officer was referring to, but "per policy, we are allowed to help others with legal work." The officer issued a conduct report charging Pannell with Offense B-215, which prohibits the "unauthorized possession, destruction, alteration, damage to, or theft of property, State property, or property belonging to another person."¹ The officer described the property as "2 papers belonging to another offender that doesn't live in the cell."

Pannell received notice of the charge and a copy of the conduct report a few days later. He pleaded not guilty and declined to waive his right to 24 hours' notice of his hearing date. He requested witness testimony from the correctional officer who conducted the cell search and from the inmate whose name was on the papers. He also requested documents including the other inmate's legal materials and the IDOC policy describing the charged offense. The requests were granted except for the other inmate's folder of legal materials, because officers had not confiscated it.

Pannell's disciplinary hearing took place a few days later. He gave a written statement, and then the charging officer testified. Pannell asked the officer questions about the cell search and the officer's awareness of certain IDOC policies. But the hearing officer disallowed some of the questions because they were duplicative of the conduct report, self-evident from the charged violation, or related to staff training. The inmate whose name was on the legal papers then testified that he was preparing a grievance appeal with Pannell's help, visited Pannell's cell to discuss the merits of his appeal, and mistakenly left behind a folder with two documents. The hearing officer found Pannell guilty of the charged offense and sanctioned him with the loss of 90-days earned credit, a demotion in credit class, and the loss of certain institutional privileges.

After exhausting the internal appeals process, Pannell filed a habeas petition under 28 U.S.C. § 2254, arguing that he was deprived of good-time credit without due process. He asserted that he did not receive proper notice of the charge, sufficient opportunity to question witnesses, or an impartial decisionmaker, and further that there

¹ This record does not indicate whether this regulation includes an exception for another inmate's legal documents.

was insufficient evidence to support the conviction. In denying the petition, the district court first concluded that, although the conduct report did not describe the allegedly prohibited papers, Pannell had not shown that the vagueness impeded his defense. Further, the court explained, Pannell was not denied access to witnesses because the quashed questions were immaterial. The court also determined that Pannell lacked evidence of the hearing officer's bias, and finally that the presence of another inmate's papers in his cell was sufficient evidence of the violation. Pannell appeals, and we review the denial of his petition de novo. *Reyes v. Nurse*, 38 F.4th 636, 644 (7th Cir. 2022).

Pannell has a liberty interest in earned good-time credits, so he must receive due process before they can be reduced. *Ellison v. Zatecky*, 820 F.3d 271, 274 (7th Cir. 2016). This requires 24 hours' advance notice of the charges, a hearing before an impartial decisionmaker, the right to call witnesses and present evidence, and a written explanation of the outcome. *Wolff v. McDonnell*, 418 U.S. 539, 563–71 (1974). Further, a guilty finding must be supported by "some evidence" in the record. *Superintendent v. Hill*, 472 U.S. 445, 454 (1985).

On appeal, Pannell first takes issue with the conclusions that his rights were not violated with respect to the notice of his charges and the ability to question witnesses. But to the extent any violation occurred, Pannell does not show that he was prejudiced.

First, Pannell does not establish that any ambiguities in the conduct report impeded his ability to prepare a defense, as necessary to obtain habeas relief. *See Wolff*, 418 U.S. at 564. While Pannell rightly notes that he had a right to know the facts underlying the accusation, *see id.*, the conduct report's description of "2 papers belonging to another offender" satisfied this requirement. True, the report did not give the other inmate's name or mention that the documents were legal materials. But even if that level of detail were required (which we need not decide), Pannell's evidentiary requests show that he was aware whose papers, and of what kind, were at issue, as does his comment at the time of cell search: "Per policy, we are allowed to help others with legal work." Thus, Pannell was not prevented from preparing a defense.

Second, Pannell does not persuade us that, because the hearing officer struck several of his questions to the correctional officer, he did not receive the required opportunity to question witnesses. As the district court explained, the restriction of some of Pannell's questions was a proper exercise of "necessary discretion" to keep the proceeding within reasonable limits. *Wolff*, 418 U.S. at 566. Pannell asked whether the correctional officer had been instructed to conduct a cell search and about the officer's

personal knowledge of the relevant IDOC policies, and the hearing officer denied these questions as duplicative of the conduct report, self-evident, or related to staff training. Pannell has not shown how any of these questions was material to the fairness of his hearing or affected his ability to defend himself against the charge. *See id.*

Third, though Pannell argues that he did not receive a hearing before a neutral decisionmaker, he points to no conflict of interest or personal bias—e.g., the hearing officer’s substantial involvement in the investigation or a disqualifying relationship with a witness, *see id.* at 570–71—that could have affected the outcome of his hearing. He asserts generally that the disciplinary hearing officer decided the case based on personal impressions rather than the evidence, but that is insufficient to show bias.

Finally, Pannell contends that there was insufficient evidence that the papers belonged to another inmate. But there is enough in the record to satisfy the “some evidence” standard, a “meager threshold.” *Scruggs v. Jordan*, 485 F.3d 934, 941 (7th Cir. 2007). The other inmate testified that he brought his legal papers to Pannell’s cell and left them there, Pannell admitted that the papers were in his cell, and the conduct report noted the officer’s finding of the papers as well as Pannell’s statement that he was “allowed to help others with legal work.” *See Hill*, 472 U.S. at 454; *Ellison*, 820 F.3d at 274. This is sufficient to show that Pannell retained “property belonging to another person” in his cell without prison officials’ permission, which Offense B-215 prohibited. Further, a conduct report alone may provide “some evidence” to satisfy the requirements of due process, and the report here explained that the unauthorized property consisted of two documents belonging to an inmate other than Pannell or a cellmate. *See McPherson v. McBride*, 188 F.3d 784, 786 (7th Cir. 1999).

Pannell’s other arguments are not developed and require no further discussion.

AFFIRMED