

STATE OF VERMONT

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
No. 21-CV-3253

JOHN BROWN,
Petitioner,

v.

JAMES BAKER,
Respondent.

RULING ON CROSS-MOTIONS FOR SUMMARY JUDGMENT

The Department of Corrections administratively charged and convicted inmate John Brown with a disciplinary infraction for fighting without having caused serious bodily injury. He appealed administratively, and the conviction was upheld. He then sought Rule 75 review here. The parties have filed cross-motions for summary judgment. Mr. Brown argues that the evidentiary record can only support the determination that he acted in self-defense, and thus he should not have been convicted. The State argues that “some evidence” supports the hearing officer’s determination of guilt.

“[W]hen reviewing administrative action by the [DOC] under Rule 75, we will not interfere with the Department’s determinations absent a showing that the [Department] clearly and arbitrarily abused its authority.” *King v. Gorczyk*, 2003 VT 34, ¶ 7, 175 Vt. 220; *Molesworth v. University of Vermont*, 147 Vt. 4, 7 (1986) (certiorari review “confined to addressing substantial questions of law affecting the merits of the case.”). More specifically, when reviewing prison disciplinary determinations, the court applies the due process “some evidence” standard described in *Superintendent v. Hill*, 472 U.S. 445, 455 (1985). *LaFaso v. Patrissi*, 161 Vt. 46, 49 (1993). Although due process requires the DOC to prove a disciplinary infraction by a preponderance of the evidence at the disciplinary hearing, *id.* at 51, the court will uphold a disciplinary determination on review if “there is any evidence in the record to support the conclusion reached by the disciplinary board.” *Hill*, 472 U.S. at 455–56; see also *King*, 2003 VT 34, ¶ 7; *Lafaso*, 161 Vt. at 49.

The fight was caught on camera, the recording of which the hearing officer reviewed. Prior to it, there is no dispute that Mr. Brown had an argument with the other inmate involved in the fight. That inmate then proceeded to the bathroom, where Mr. Brown soon followed him. Upon arriving, the fight erupted. Mr. Brown was hit and stabbed and returned a couple punches.

The transcript of the disciplinary hearing makes clear that the only truly disputed issue in this case was whether Mr. Brown proceeded to the bathroom innocently and then acted in self-defense once attacked, or whether he went there to fight. There is no

argument that, in the right circumstances, Mr. Brown had a right to defend himself.

The problem is that, despite evidence that at least arguably could have supported a determination either way, the hearing officer's findings are completely equivocal. He merely determined that Mr. Brown proceeded to the bathroom, was attacked, and threw punches, and on that basis found him guilty. He never determined the issue of self-defense, the only contested issue.

Mr. Brown wants the court to make a finding of self-defense on appeal, which it cannot. The State wants the court to decide the case based on evidence that supports a finding that was never made (that Mr. Brown did not act in self-defense), which it cannot.

The hearing officer failed to make the determinative finding of fact. He must do so in the first instance. His failure to do so leaves the record unreviewable.

Order

For the foregoing reasons, the parties' cross-motions for summary judgment are denied. This case is remanded to the DOC for a finding of fact by the hearing officer on the issue of self-defense.

SO ORDERED this 2nd day of June, 2022.



Robert A. Mello
Superior Judge