

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID J. DEMAS,
115 Hill St.
Dunmore, PA 18512

Plaintiff,

v.

U.S. FEDERAL BUREAU OF PRISONS,
320 First St. NW
Washington, DC 20534

and

FERNANDO GARZA, *in his official
capacity as Warden of United States
Penitentiary Canaan,*
P.O. Box 400
Waymart, PA 18472

Defendants.

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE RELIEF**

Civil Action No. _____

INTRODUCTION

Plaintiff David J. Demas (“Plaintiff”) brings this action against the United States Federal Bureau of Prisons (“BOP” or “Agency”), his employer, and Fernando Garza, Warden of the U.S. Penitentiary Canaan (“Garza”) (collectively, “Defendants”) to vindicate his rights under the First Amendment. The BOP unlawfully retaliated against Plaintiff by issuing him administrative discipline for

exercising his right of free speech by speaking to the media in his personal capacity on matters of public concern, and exercising his right to expressive association by voluntarily associating, as a member and officer, with the labor organization of his choice, Local 3003 of the National Council of Prisons Locals, Council 33 (“CPL-33”), an affiliate of the American Federation of Government Employees, AFL-CIO (“AFGE”). This Court should therefore declare the Agency’s actions unlawful, and order that the Agency rescind Plaintiff’s discipline in its entirety and expunge it completely from all Agency records.

From October 1, 2025, until November 12, 2025, the federal government shut down due to a lapse in appropriations. This shutdown was historic. It was, at the time, the longest ever shutdown of the federal government in the history of the United States. Congress argued fruitlessly for more than six weeks over whether and how to fund the government. During this time, and through no fault of their own, thousands of federal workers went unpaid. Many were furloughed but more were required to continue working because their jobs were designated essential for the protection of life, property, or the environment. Among those workers who were required to continue working without pay were federal correctional officers, like Plaintiff. The 2025 shutdown and its effects on federal workers were the subject of widespread media attention and public discussion.

Also in 2025, the federal government launched a sustained attack on federal sector labor organizations, including CPL-33. For example, on March 27, 2025, the President issued Executive Order 14251, which purported to exclude numerous federal agencies, including the BOP, from coverage under the Federal Service Labor-Management Relations Statute (the “FSLMRS”), 5 U.S.C. §§ 7101–7135. And on September 25, 2025, the Director of the BOP terminated the collective bargaining agreement (“CBA”) between CPL-33 and the BOP prior to the natural end of its term. The Director made clear that his termination of the CPL-33 CBA was founded on his belief that CPL-33 was not the kind of union he could support and that he viewed CPL-33 as an obstacle to progress. The government shutdown and BOP’s termination of its CBA with CPL-33 were also the subject of widespread media and public interest. And the combination of the executive order and the CBA termination meant that employees of the BOP were left to navigate the lengthy shutdown with a weakened union and without access to any of the statutory or contractual dispute resolution procedures provided by the FSLMRS or the CBA.

Plaintiff is the President of Local 3003. He is also a Senior Officer Specialist with the BOP who works at the U.S. Penitentiary Canaan (“USP Canaan”) in Waymart, Pennsylvania. As a union leader, he represents his fellow correctional officers in a variety of ways, including by advocating for safe and effective facility

operations and fair policies and conditions. Against the backdrop described above, and in his capacity as a union leader, Plaintiff gave two interviews in September of 2025 to two media outlets: NBC Nightly News and BBC News. Both interviews were conducted while Plaintiff was off duty and not at his worksite. Both interviews concerned the effect of a shutdown on federal employees, including federal correctional officers, and, in one interview, the added effect of BOP's termination of the CPL-33 CBA on employee morale.

For example, in his September 28, 2025, interview with NBC Nightly News which identified him as a union president, Plaintiff explained that:

So, if the government is using us a bargaining chip, it's actually pretty sad—when a president or the Democrats or the Republicans, back and forth, no matter who—it always lays back on us. It's us that have to take the fall. And we're the ones that are going to be sitting there inside of a prison with no pay, still doing the day-to-day jobs. Again, we shouldn't be a bargaining chip. We should open the government. We should figure out a way to get a C[ontinuing] R[esolution]. We shouldn't be worrying about stuff that can be negotiated within the next six weeks. Let's keep the government going, keep all the checks going, and keep everything business as usual. Congress should sit down and figure this out.

And in his September 30, 2025, interview with BBC News, Plaintiff, in addition to discussing the government shutdown, stated that:

Last week, the agency also terminated our union contract so now we're literally going to work with no pay and no safeguards. This is kind of stickin' it to us, saying well, "you're going to have to wait until Washington, DC figures out the budget."

In each interview, Plaintiff spoke only in his capacity as a union official and private citizen. And Plaintiff did not disclose non-public information or information concerning specific BOP operations. Immediately following these interviews, Defendants began an investigation of Plaintiff. The subject of that investigation was Plaintiff's statements to NBC Nightly News and BBC News. Defendants claimed Plaintiff violated Agency Program Statement 1480.05, "News Media Contacts" (the "Media Policy") by failing to gain Defendant Garza's permission before speaking with the news media and, on November 6, 2025, proposed that Plaintiff be suspended for a period of ten days. The Media Policy and other BOP Program Statements are publicly available.¹ In spite of Plaintiff's written and oral replies to Defendant's proposed discipline, in which Plaintiff correctly identified that the charge against him constituted retaliation for First Amendment protected speech and relied on an overly broad application of BOP policy, on January 28, 2026, Defendants sustained the charge of "unauthorized release of information to news media" and suspended Plaintiff for a period of three calendar days.

¹ See, e.g., U.S. DEP'T OF JUST., FED. BUREAU OF PRISONS, PROGRAM STATEMENT 1480.05, NEWS MEDIA CONTACTS (2000), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.bop.gov/policy/progst at/1480_005.pdf

Both Defendants' initiation of the investigation and the suspension of Plaintiff were retaliation for his protected speech and association with his union. For example, the Media Policy that Defendants relied on to discipline Plaintiff plainly does not apply to the type of speech Plaintiff engaged in during his interviews. Further, irrespective of the Media Policy's breadth and scope, Defendants have not identified what non-public information Plaintiff allegedly disclosed. In fact, Defendant Garza admitted on November 17, 2025, during Defendants' investigation of Plaintiff that he "did not know" whether Plaintiff shared any non-public information.

Plaintiff therefore brings this action for declaratory and injunctive relief seeking a declaration that Defendants acted unlawfully by retaliating against Plaintiff for his lawful exercise of his First Amendment rights and an order preliminarily and permanently enjoining Defendants from enforcing the Media Policy against protected speech.

PARTIES

1. Plaintiff David Demas is a Senior Officer Specialist at USP Canaan and is a member and the President of AFGE Local 3003.

2. Defendant U.S. Federal Bureau of Prisons is an executive branch agency and a component of the U.S. Department of Justice. *See* 18 U.S.C. § 4042.

3. Defendant Fernando Garza is the Warden of USP Canaan, the highest-level official at the facility. He is sued in his official capacity.

JURISDICTION AND VENUE

4. Jurisdiction in this Court is proper under 28 U.S.C. § 1331 because this action arises under the Constitution and the law of the United States, specifically the First Amendment and the Administrative Procedure Act. The Administrative Procedure Act also grants this Court jurisdiction under 5 U.S.C. §§ 702–704.

5. Venue is proper in this District under 28 U.S.C. § 1391(e)(1) because the facility where both Plaintiff and Defendant Garza work and wherein a substantial part of the events giving rise to Plaintiff’s claims, the United States Penitentiary Canaan, is in Waymart, Pennsylvania, located in the Middle District of Pennsylvania. Additionally, Plaintiff resides in Dunmore, Pennsylvania, also in the Middle District.

FACTUAL ALLEGATIONS

I. Plaintiff is a Respected Officer and Long Serving Union Leader.

6. Plaintiff has nearly ten years of federal service with the BOP. He is an exemplary employee, having consistently received high performance ratings and no discipline prior to Defendants’ imposition of his suspension on January 28, 2026. He also provides for his wife and two young children.

7. Plaintiff is a Senior Officer Specialist at USP Canaan. As a Senior Officer Specialist, he ensures the safety of inmates, facility staff, and the public. His job requires him to supervise individuals who may be unpredictable or violent and to respond to emergency situations.

8. For as long as Plaintiff has worked for the BOP, he has also been a member of his union, AFGE Local 3003. He has been an elected official of Local 3003 for seven years, serving as Treasurer from 2019 until 2022, when he was elected President.

9. As President of AFGE Local 3003, Plaintiff represents correctional officers and staff, many of whom work under the same conditions as Plaintiff himself, which may include extended shifts, mandatory overtime, and safety threats. Plaintiff advocates in his union capacity for fair and safe conditions for staff in federal prison facilities.

II. The Trump Administration's Attacks on Collective Bargaining

10. On March 27, 2025, President Trump issued Executive Order 14251, *Exclusions from Federal Labor-Management Relations Programs* ("E.O. 14251"). E.O. 14251 purports to remove certain federal agencies from coverage under the FSLMRS. Among those agencies removed from coverage under the FSLMRS was

the Federal Bureau of Prisons. The President's attack on collective bargaining received immediate and sustained media attention.²

11. Nearly six months later, on September 25, 2025, BOP Director William K. Marshall, III announced the immediate cancellation of the CBA between CPL-33 and BOP.

12. The Director's announcement was published on the Agency's website as a "Message from the Director," characterizing CPL-33 as "an obstacle to progress instead of a partner in it[.]"³ The cancellation of the CBA was reported on by multiple media outlets the day after its cancellation, on September 26, 2025.⁴

² See, e.g., Erich Wagner, *Trump Order Aims to Outlaw Most Government Unions on "National Security" Grounds*, GOV. EXEC. (Mar. 27, 2025), <https://www.govexec.com/workforce/2025/03/trump-order-aims-outlaw-most-government-unions-national-security-grounds/404113/?oref=ge-author-river>.

³ FEDERAL BUREAU OF PRISONS, Message from the Director (Sept. 25, 2025), BOP.GOV (hover over "Resources" tab; click "News Stories"; scroll down and select hyperlinked text reading "No excuses. No roadblocks. Just better.").

⁴ See, e.g., Walter Pavlo, *Bureau of Prisons Cancels Collective Bargaining Agreement with Union*, FORBES (Sept. 26, 2025, 1:36 PM), <https://www.forbes.com/sites/walterpavlo/2025/09/26/bureau-of-prisons-cancels-collective-bargaining-agreement-with-union/> ("President John F. Kennedy's 1962 Executive Order 10988 . . . opened the door for AFGE to establish locals across the federal prison system, representing correctional officers and staff in one of the most challenging workplaces in government."); Drew Friedman, *Federal Bureau of Prisons Terminates Collective Bargaining Agreement with AFGE*, FED. NEWS NETWORK (Sept. 26, 2025, 4:37 PM), <https://federalnewsnetwork.com/unions/2025/09/federal-bureau-of-prisons-terminates-collective-bargaining-agreement-with-afge/>.

13. AFGE, CPL-33, and Local 3003 continued to function, and Plaintiff remained a member of AFGE and an elected officer at Local 3003, after the Agency's cancellation of the CBA.

14. Less than a week after the cancellation of the CBA, the United States Congress failed to pass appropriations legislation for the 2026 fiscal year, and the federal government entered a "shut down."

III. The 2025 Federal Government Shutdown and the Public Reaction

15. According to publicly available guidance maintained by the U.S. Office of Personnel Management, a "shutdown furlough" occurs when an agency or agencies lack the necessary funds to operate and must "shut down" or cease agency activities that are not excepted pursuant to the Antideficiency Act, 31 U.S.C. §§ 1341–1342.⁵ Employees performing "excepted" functions are expected to continue to work during the shutdown, to be paid only after Congress passes and the President signs an appropriation or continuing resolution.⁶

16. The U.S. Department of Justice Fiscal Year 2026 Contingency Plan, published September 29, 2025, provides that all staff at federal prisons are considered excepted.⁷

⁵ OFF. OF PERS. MGMT., GUIDANCE FOR SHUTDOWN FURLOUGHS (Jan. 2026) at 1.

⁶ *Id.* at 8.

⁷ U.S. DEP'T OF JUSTICE, U.S. DEPARTMENT OF JUSTICE FY 2026 CONTINGENCY PLAN (Sept. 29, 2025) at 11.

17. As early as the first week of September 2025, news outlets reported on the threat of a shutdown looming at the end of the 2025 fiscal year.⁸ By the end of the month, reporting on the shutdown was a fixture of mainstream media. Coverage included the anticipated effect on federal workers, especially those expected to report to work without pay.⁹

18. The shutdown in the fall of 2025 was and remains the longest full lapse in appropriations in United States history,¹⁰ lasting until November 12, 2025. As the shutdown dragged on, the toll on federal employees grew as many struggled to pay bills and put food on the table for their families.¹¹

⁸ Terry Gerton, *With a Possible Government Shutdown Looming, Contractors are Looking for Guidance*, FED. NEWS NETWORK (Sept. 3, 2025, 9:50 AM), <https://federalnewsnetwork.com/contracting/2025/09/with-a-possible-government-shutdown-looming-contractors-are-looking-for-guidance/>.

⁹ See Nik Popli, *The Federal Government Has Shut Down. Here's How it Could Affect Your Life*," TIME (Sept. 25, 2025, 2:12 PM), <https://time.com/7320516/government-shutdown-impact-federal-workers-airports-parks-mail/> ("As many as 750,000 federal employees could be furloughed each day and sent home without pay Those who are deemed essential workers, such as employees in public safety and national security, will report to work without pay.").

¹⁰ Justin Murray & Carol Wilson, CONG. RSCH. SERV., R41759, PAST GOVERNMENT SHUTDOWNS: KEY RESOURCES 1 (2026) ("The most recent, and longest shutdown to date, started in FY2026 on October 1, 2025, and lasted for a total of 42 full days. A subsequent funding lapse related to six unresolved FY2026 appropriations bills began on January 30, 2026.").

¹¹ See, e.g., Eric Katz, *Carpools, Side Jobs and Food Banks: How Feds Working Through the Shutdown are Navigating Delayed Pay*, GOV. EXEC. (Oct. 16, 2025), <https://www.govexec.com/workforce/2025/10/carpools-side-jobs-and-food-banks-how-feds-working-through-shutdown-are-navigating-delayed-pay/408863/>.

IV. Plaintiff's Interviews

19. On September 28, 2025, shortly before the shutdown began, Plaintiff was interviewed for NBC Nightly News. During that interview, Plaintiff can be seen on screen wearing a black polo shirt embroidered with his last name and first initial ("D. Demas") on the left and the AFGE Local 3003 emblem on the right. A banner at the bottom of the screen identifies him as "David Demas, American Federation of Govt. Employees Union President (Local 3003)."

20. In the brief clip shown during the nightly news segment, Plaintiff offered his perspective on employee morale during a government shutdown. He shared his intention to maintain his family's routine despite the shutdown, stating "We have dance class, we have piano, we have gymnastics. Nothing is going to change; the only thing that's going to change is dad's not going to get a paycheck."

21. An expanded version of Plaintiff's interview with NBC Nightly News was posted on the YouTube channel "No Labels." In the expanded version of that interview, Plaintiff addressed the compounding stressor of a government shutdown on the already stressful job of being a correctional officer. The interview closed with Plaintiff calling on Congress to keep the federal government open—and not to use federal employees as bargaining chips.

22. On September 30, 2025, Plaintiff was interviewed for the BBC World Business Report. Plaintiff's interview with the BBC was not filmed and features only recorded audio.

23. In his interview with the BBC, Plaintiff addressed many of the same topics he addressed in his NBC Nightly News interview, including that morale is low for federal employees during a shutdown and that he felt as though federal employees had become a bargaining chip for politicians. He also touched on the cancellation of the CBA, stating simply, "we're going to work with no pay and no safeguards."

24. At no point in any interview did Plaintiff purport to speak on behalf of the BOP.

V. The Agency's Policy on "News Media Contacts"

25. The Media Policy, BOP Program Statement 1480.05, "News Media Contacts," in place since September 21, 2000, allows the public access to information about facility operations via the media while simultaneously protecting the privacy of inmates and facility staff. The Media Policy dictates the parameters within which a member of the press may conduct an interview with an inmate and controls the release of certain information from a given facility.

26. Section 11 of the Media Policy, "Release of Information," provides that the Warden of an institution will make announcements regarding unusual or

newsworthy incidents, such as a death at the premises, an escape, or an institutional emergency. For purposes of this subsection, the Media Policy grants the Warden sole responsibility for contact with the press regarding such incidents.

27. The Media Policy also addresses the role of the union, stating on its first page that the Policy “shall not restrict the union’s role in representing bargaining unit employees. . . . Union officials will be allowed to represent the Bargaining Unit in their official capacity (e.g., providing interviews with the print or broadcast media[.])”

VI. The Agency’s Investigation

28. Shortly after Plaintiff gave his interviews at the end of September 2025, the Agency opened an administrative inquiry into his conduct, alleging that he violated the Media Policy.

29. On October 9, 2025, Plaintiff signed an affidavit prepared by Special Investigative Agent (“SIA”) Wladimir Vizcaino. In the affidavit, Plaintiff acknowledged the statements he made in his interviews and that the Media Policy was in place at the time he gave the interviews. But he also disputed in his affidavit the contention that he was not authorized to address the media despite the cancellation of the CBA and asserted his belief that he was exercising his First Amendment right to speak on behalf of his union.

30. On November 6, 2025, the Office of the Warden, through Captain Todd Kehl, issued Plaintiff a notice proposing that he be suspended for a period of ten calendar days for “Unauthorized Release of Information to News Media” in violation of BOP Program Statement 3420.12, “Standards of Conduct”¹² (the “Proposal Notice”).

31. The Proposal Notice contains three specifications: “Specification A” referred to Plaintiff’s interview with NBC Nightly News; “Specification B” referred to Plaintiff’s interview with the “BBC World News”; and “Specification C” referred to the extended version of Plaintiff’s interview with NBC Nightly News, which was published on the No Labels YouTube channel on October 3, 2025.

32. Each of the specifications asserted that Plaintiff “disclosed information that was not authorized to be released by the Warden or his designated representative,” and referred to Plaintiff’s October 3, 2025, affidavit wherein he allegedly “admitted” that he was not “authorized to address the media” upon cancellation of the CBA.

¹² U.S. DEP’T OF JUST., FED. BUREAU OF PRISONS, PROGRAM STATEMENT 3420.12, STANDARDS OF EMPLOYEE CONDUCT (2024), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.bop.gov/policy/progst at/3420_012.pdf.

33. The Proposal Notice concluded that Plaintiff violated Agency Standards of Conduct by giving interviews to media outlets in violation of the Media Policy. The bases given for the discipline were two-fold: first, that Plaintiff shared information in his interviews of a type that is within the Warden's sole discretion to authorize for release to the media, and second, that with the dissolution of his representational rights in the CBA, Plaintiff was no longer authorized to address the media in his capacity as a union official.

34. The Proposal Notice did not identify any prohibited information that Plaintiff had allegedly disclosed.

35. On November 17, 2025, Plaintiff attended a meeting with Defendant Garza, Human Resources Manager Paul Brewer, and Human Resources Specialist John Giangrieco in the Warden's office at USP Canaan. During that meeting, Defendant Garza stated that he "did not know" whether Plaintiff shared any non-public information in either of the interviews he gave.

36. Defendant Garza's admission is reflected in contemporaneous meeting minutes produced by the Agency.

37. On November 18, 2025, Plaintiff submitted his written response to the Proposal Notice. In his response, Plaintiff argued that the Agency's charge of unauthorized release of information to news media constituted retaliation against

his First Amendment protected speech and that the charge relied on an overbroad application of the Media Policy.

VII. Plaintiff's Suspension

38. On January 28, 2026, Defendant Garza issued Plaintiff a notice of decision (“Decision Notice”) in which he found the charge of unauthorized release of information to news media “fully supported by the evidence in the disciplinary action file” and suspended Plaintiff for three calendar days.

39. Defendant Garza noted his “appreciation” for the arguments Plaintiff made in his written response, namely, that his actions were protected under the First Amendment and that the Media Policy did not apply to his speech but claimed, without addressing the merits of Plaintiff’s arguments, that they did not “outweigh the seriousness” of Plaintiff’s actions and that Plaintiff “had no approved authorization to conduct interviews with the news media and speak on behalf of employees for the Bureau of Prisons.”

40. Defendants presented Plaintiff with the Decision Notice in person on January 28, 2026.

41. Plaintiff served his suspension from February 5, 2026, through February 7, 2026.

42. The Decision Notice provided Plaintiff with administrative appeal rights and on February 11, 2026, Plaintiff filed an agency grievance pursuant to

BOP Program Statement 3711.01, “Employee and Labor Management Relations.”¹³

43. Plaintiff’s agency grievance (“Agency Grievance”) challenged the three-calendar-day suspension issued to him by the Agency for an alleged violation of the Media Policy.

44. In his Agency Grievance, Plaintiff asserted, *inter alia*, that the Decision Notice failed to address his arguments or to cure the deficiencies associated with the Proposal Notice. Plaintiff explained that his suspension was faulty because: (1) the Agency failed to establish that his interviews featured information that was prohibited from being released or that required prior authorization to share with news media; and (2) the Agency’s imposition of discipline against him constituted impermissible and illegal retaliation for his protected activity, specifically, the exercise of his associational and speech rights under the First Amendment.

45. Plaintiff’s Agency Grievance requested: complete rescission of his suspension; expungement of his suspension from his personnel records; backpay;

¹³ U.S. DEP’T OF JUST., FED. BUREAU OF PRISONS, PROGRAM STATEMENT 3711.01, EMPLOYEE AND LABOR MANAGEMENT RELATIONS (2017), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.bop.gov/policy/progstat/3711.01.pdf.

and that BOP cease and desist from retaliating against him for engaging in constitutionally protected activity.

46. On February 19, 2026, in a letter signed by Defendant Garza, the Agency denied Plaintiff's Agency Grievance. Addressing Plaintiff directly, Defendant Garza wrote

Mr. Demas, in your affidavit dated October 9, 2025, you admitted that you conducted interviews with the news media after the Collective Bargaining Agreement (CBU) [sic] was terminated on September 25, 2025. As a result of the termination of the CBU [sic], any representational rights/duties covered by 5 U.S.C. § 7114 that you previously held as Local President in the Council of Prison Locals 33 were dissolved. As such, you were not authorized to release any information to the press. More importantly, you were aware of Bureau policy that the Warden or his/her designated representative is solely responsible for contact with the press and other staff members are to refer all press inquiries to me or my designee(s).

Defendant Garza's decision was final and expressly provided that Plaintiff had no further right of administrative appeal.

47. Plaintiff has exhausted his available administrative remedies and his constitutional claims remain unresolved.

VIII. Further Agency Retaliation Against Plaintiff

48. In early 2026, after Plaintiff spoke to the media and challenged the Agency's imposition of discipline against him, the Agency opened an administrative inquiry into an inmate search Plaintiff conducted in July 2023.

49. Defendants claimed the records related to the alleged search had, until the inquiry against Plaintiff was opened, been lost at another BOP institution.

50. The alleged visual search was conducted in a common area while other inmates were also present in the common area.

51. On February 9, 2026, Plaintiff signed an affidavit prepared by SIA Vizcaino. In the affidavit, Plaintiff stated his belief that he may have conducted a visual search of the inmate but was unsure from video footage provided by the Agency.

52. On April 3, 2026, the Office of the Warden, through Captain Todd Kehl, issued Plaintiff a notice proposing that he be suspended for a period of three calendar days for “Failure to Follow Policy” in violation of BOP Program Statement 3420.11, “Standards of Employee Conduct.”¹⁴

53. The April 3 notice cited Program Statement 3420.11 which provides in part that employees shall conduct themselves in a manner not demeaning to inmates, as well as Program Statement 5521.06, CN-1, “Searches of Housing

¹⁴ U.S. DEP’T OF JUST., FED. BUREAU OF PRISONS, PROGRAM STATEMENT 3420.11, STANDARDS OF EMPLOYEE CONDUCT (2013), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.bop.gov/policy/progst at/3420_011.pdf.

Units, Inmates, and Inmate Work Areas,”¹⁵ which provides that visual searches shall assure as much privacy to an inmate as practicable.

54. The April 3 notice failed to specify how Plaintiff’s conduct in July 2023 violated either of the cited Program Statements.

55. On April 7, 2026, Plaintiff responded to the April 3, 2026, notice.

56. Plaintiff denied violating BOP policy. Plaintiff also raised concerns over the timing of BOP’s investigation, in part because approximately 983 days had passed between the search at issue and the date on which BOP proposed discipline against him.

57. On April 20, 2026, Defendant Garza issued a notice of decision to Plaintiff in which he found the charge of failure to follow policy “fully supported by the evidence in the disciplinary action file” and that a letter of reprimand should have the “desired coercive effect.” Defendant Garza failed to address or justify either the conveniently timed recovery of the file for a three-year-old search or the Agency’s lack of explanation for how Plaintiff’s conduct violated BOP policy.

¹⁵ U.S. DEP’T OF JUST., FED. BUREAU OF PRISONS, PROGRAM STATEMENT 5521.06, CN-1, SEARCHES OF HOUSING UNITS, INMATES, AND INMATE WORK AREAS (2025), chrome-extension://efaidnbnmnnibpcajpcglclefindmkaj/https://www.bop.gov/policy/progst/5521_006_cn-1.pdf.

CAUSES OF ACTION

First Cause of Action

Retaliation in Violation of the First Amendment for Engaging in Protected Speech

58. Plaintiff realleges and incorporates the allegations contained in paragraphs 1 through 57.

59. The First Amendment to the United States Constitution guarantees Plaintiff the right to speak freely on matters of public concern, including the right to express viewpoints disfavored by the government without retaliation, punishment, or deterrence based on those viewpoints.

60. The Media Policy does not apply to the content and type of speech engaged in by Plaintiff.

61. Even if the Media Policy were written such that it applied to Plaintiff's speech on its face, such a policy would constitute an unconstitutional prior restraint on speech.

62. Plaintiff did not require Defendant Garza's permission to speak on the topics he addressed in his interviews, irrespective of Defendants' decision to cease recognition of Plaintiff's union.

63. Plaintiff spoke only in his capacity as a union officer and private citizen on matters of demonstrated public concern.

64. Defendants' decision to suspend Plaintiff based on the Media Policy was impermissible retaliation for Plaintiff's exercise of his rights under the First Amendment and was intended to chill Plaintiff's future exercise of those rights.

65. Defendants' discipline of Plaintiff violates Plaintiff's right to free speech under the First Amendment and is unconstitutional.

66. Defendants' discipline of Plaintiff imposes an unconstitutional chill and penalty on Plaintiff's speech, and without declaratory and injunctive relief, will continue to do so.

Second Cause of Action
Retaliation for Exercising the Right to Expressive Association under the First Amendment

67. Plaintiff realleges the allegations contained in paragraphs 1 through 57.

68. The First Amendment to the United States Constitution protects Plaintiff's right to associate with persons or organizations in pursuit of social, legal, and economic ends.

69. The First Amendment protects Plaintiff's right to speak and to freely associate through that speech.

70. The First Amendment necessarily prohibits the government from banning a person from expressively associating with others in the creation and dissemination of speech.

71. Plaintiff is a member and elected officer of AFGE Local 3003 and holds views supportive of his union's role in upholding and enforcing workplace rights and protections, and of his union's position as the representative of employees at USP Canaan.

72. The Agency's recognition of AFGE or any affiliate thereof does not dictate the bounds of Plaintiff's right to freely associate or to engage in public speech supportive of his union, or to express the views of the union on matters of public concern.

73. Nor does the Agency's refusal to recognize AFGE or any affiliate thereof dissolve the union or strip Plaintiff of his affiliation with or leadership role within the union.

74. Defendants' decision to formally discipline Plaintiff was an adverse action predicated on an overbroad and erroneous application of the Media Policy and calculated to retaliate against and punish Plaintiff for his association with AFGE CPL-33.

75. Defendants' discipline of Plaintiff violates and retaliates against Plaintiff for exercising his right to freely associate under the First Amendment and is therefore unconstitutional.

76. Defendants' discipline of Plaintiff imposes an unconstitutional chill and penalty on Plaintiff's exercise of his right to freedom of association, and without declaratory and injunctive relief, will continue to do so.

Third Cause of Action
Arbitrary and Capricious and Contrary to Constitutional Right Under the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A), 706(2)(B)

77. Plaintiff realleges the allegations contained in paragraphs 1 through 57.

78. The Agency's decision to suspend Plaintiff is a final agency decision for which there is no other adequate remedy in a court.

79. Defendants' discipline of Plaintiff for his constitutionally protected speech was calculated to retaliate against and punish Plaintiff for his exercise of rights protected by the First Amendment and to chill his exercise of such rights and was therefore contrary to constitutional right under 5 U.S.C. § 706(2)(B).

80. For the same reasons and because Defendant Garza admitted that he did not know whether Plaintiff shared any non-public information, Defendants' retaliatory conduct was arbitrary, capricious, and an abuse of discretion. Defendants' suspension of Plaintiff must therefore also be set aside under 5 U.S.C. § 706(2)(A).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court enter judgment in his favor and grant the following relief:

- a. Injunctive relief ordering Defendants to rescind the three-calendar-day suspension issued to Plaintiff on January 28, 2026, and enjoining Defendants from relying on the Media Policy, BOP Program Statement 1480.05, to punish employees for constitutionally protected speech;
- b. Declaratory relief holding that Defendants' suspension of Plaintiff was in retaliation for First Amendment-protected speech, and that Plaintiff is entitled to relief;
- c. An award of backpay and other monetary and administrative relief from Defendants;
- d. An award of costs and attorney's fees as provided in 28 U.S.C. § 2412(d) and any other applicable law; and
- e. A grant of such other relief as this Court may deem just and proper.

Date: July 14, 2026

Respectfully submitted,

/s/ Irwin W. Aronson

Irwin W. Aronson (PA Supreme Court ID 36921)

Samuel H. Datlof (PA Supreme Court ID 324716)

Willig, Williams & Davidson

1845 Walnut Street, 24th Floor

Philadelphia, PA 19103
(717) 221-1000
iaronson@wwdlaw.com
sdatlof@wwdlaw.com

Rushab B. Sanghvi (DC Bar No. 1012814)*
Andres M. Grajales (DC Bar No. 476894)*
Caroline M. Trabucco (DC Bar No. 90010155)*
**American Federation of Government
Employees, AFL-CIO**
80 F Street NW
Washington, DC 20001
(202) 639-6426
sanghr@afge.org
grajaa@afge.org
caroline.trabucco@afge.org

**Pro hac vice application forthcoming*

Counsel for Plaintiff David Demas