

Civil No. 15-1362 (GAG)

1 filed a complaint before the Bureau of Conciliation and Arbitration of the Department of Labor
2 challenging his dismissal. (Docket No. 6-1 at 3.) On February 25, 2015, Arbitrator Jorge Rivera
3 Delgado issued his Award after conducting four hearings on July 9, 2012, May 1, 2013, June 17,
4 2013 and March 11, 2014. Id. He concluded that because Rodríguez caused an avoidable runaway
5 accident, his dismissal was justified. (Docket No. 6-2 at 1, 12.) The Union now challenges the
6 Award, arguing that the Arbitrator erroneously interpreted the facts presented at the hearings and
7 ignored substantive law in reaching his conclusion. (Docket No. 6-1 at 7-10, 26.)

8 In the Arbitration Award, the arbitrator summarized the facts established at the hearings.
9 (Docket No. 6-2 at 2-5.) On November 26, 2008, Rodríguez parked his UPS vehicle, a GMC
10 Model P-500 truck, at the top of an inclined portion of the parking area at the Cristo Redentor
11 Hospital in Guayama, Puerto Rico. (Docket No. 6-2 at 2-3.) The UPS truck slid down the incline
12 and impacted two unoccupied vehicles that were parked in the lot at the bottom of the hill. Id. at 2.
13 An eye-witness, Jorge Montañez, observed that “the truck was in first gear and had the emergency
14 brake on.” Id. Rodríguez had previously complained to a mechanic and UPS administration about
15 the truck’s faulty emergency brake, and noted on his Driver Vehicle Inspection Report (“DVIR”)
16 the day of the accident that “this vehicle requires safety related service on breaks and emergency
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19 The Employer shall not discharge nor suspend any employee without just cause,
20 and prior to suspension shall give at least one verbal warning, one written
21 warning notice, and one final written notice of the complaints against the
22 employee to the employee, with a copy of the same to the Union and Delegate . .
23 . However, no verbal warning, written notice or suspension need to be given to
24 any employee before he is discharged or suspended, if during the work day such
employee is . . . involved in . . . an avoidable runaway accident . . .

(Docket No. 9-3 at 13.)

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1 break and steering wheel.” Id. at 3. However, he did not inform his supervisor or the shift
2 mechanic of these issues prior to taking the truck out. Id.

3 A police officer responded to the scene after the accident and interviewed the hospital
4 security guard and the owners of the two vehicles that were struck. (Docket No. 6-2 at 3.)
5 Rodríguez alerted his supervisor, took photographs of the scene, and completed an accident report.
6 Id. at 4. Pursuant to the UPS investigation that ensued, Health and Safety Supervisor Mr. Altabán
7 de Jesús interviewed Rodríguez, the mechanics supervisor, and one owner of a vehicle that was
8 struck. Id. at 3-4. Additionally, the UPS mechanic examined the truck and determined that it was
9 “in good operating conditions.” Id. at 4. After finalizing the investigation, UPS concluded that
10 Rodríguez did not take the necessary precautionary measures that would have prevented the
11 accident because he failed to “make sure to put the vehicle in an appropriate area, put the
12 emergency brake on with its appropriate adjustment, place the vehicle in its most heavy front gear,
13 which is the first gear, and turn the wheels in the appropriate direction, which in this case was to
14 the right.” Id. at 10. Rodríguez was dismissed pursuant to the investigation’s conclusion that he
15 caused an avoidable runaway accident. Id. at 4.

16 After four days of hearings, the arbitrator concluded that “[e]verything seems to indicate
17 that the accident was due solely and exclusively to plaintiff’s lack of care or precaution, who did
18 not follow the complete procedure upon parking the UPS vehicle.” (Docket No. 6-2 at 8.) The
19 arbitrator stated that in the absence of any evidence absolving Rodríguez of fault, he was bound by
20 the plain language of the CBA to uphold Rodríguez’s dismissal. Id. at 11.

21 Now, in its request for review of the Arbitration Award, the Union challenges the
22 arbitrator’s findings of fact, contends that Rodríguez was denied due process of law, and argues

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1 that the arbitrator failed to resolve the issue of just cause in accordance with the law. (Docket No.
2 6-1 at 7-10; 11-12; 12-26.)

II. Standard of Review

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4 Pursuant to the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.* (2010), an arbitration award
5 may only be vacated on the grounds enumerated in § 10, and may only be modified or corrected on
6 the grounds identified in § 11. Hall Street Associates v. Mattel, 552 U.S. 575, 581-82 (2008). To
7 vacate an arbitration award, the moving party must establish that the arbitrator engaged in fraud
8 “partiality or corruption,” or procedural misconduct prejudicing the rights of a party, or exceeded
9 her powers. 9 U.S.C. § 10; Colón-Vázquez v. El San Juan Hotel & Casino, 483 F. Supp. 2d 147,
10 151 (D.P.R. 2007).

11 The First Circuit also recognizes a judicially-created basis for vacating an award if the
12 award was made in “manifest disregard of the law.” McCarthy v. Citigroup Global Mkts., Inc.,
13 463 F.3d 87, 91 (1st Cir. 2006). To prevail under this theory, there must be some evidence in the
14 record, beyond the ultimate outcome, that the arbitrator “knew the law and expressly disregarded
15 it.” Id. at 91-92 (citations omitted). To vacate an arbitration award on this basis, the Union must
16 demonstrate that the award conflicts with the plain language of the CBA or that the arbitrator
17 “recognized the applicable law, but ignored it.” Union de Tronquistas de Puerto Rico, Local 901
18 v. United Parcel Serv., Inc., 960 F. Supp. 2d 354, 358 (D.P.R. 2013) (citations omitted).²

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21 ² In Hall Street Associates, the Supreme Court cast doubt on whether manifest disregard of the law is an
22 independent ground for review or merely judicial “shorthand” for the enumerated grounds in the FAA, holding that the
23 FAA enumerates the exclusive grounds for vacating an arbitration award. Hall Street Associates, 552 U.S. at 590.
24 Though the circuit courts are presently split on the issue, the First Circuit has not overruled the manifest disregard
doctrine. United Parcel Serv., 960 F. Supp. 2d at 358.

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1 **III. Legal Analysis**

2 The Union's challenges to the Arbitration Award are based on allegations that that the
3 arbitrator failed to properly interpret the facts presented at the arbitration hearing and correctly
4 apply Puerto Rico's Law 80. In its motion for summary judgment opposing vacateur, UPS argues
5 that the Court may not review these arguments because it cannot interfere with the arbitrator's
6 findings of fact or interpretation of the law. (Docket No. 9-1 at 8.)

7 A federal court's review of an arbitrator's decision is "extremely narrow and exceedingly
8 deferential." Airline Pilots Ass'n, Int'l v. Pan Am. Airways Corp., 405 F.3d 25, 30 (1st Cir. 2005)
9 (citations omitted); United Paperworkers Int'l Union v. Misco, Inc., 484 U.S. 29, 37-38 (1987).
10 Importantly, an arbitrator's factual or legal error does not supply a basis for vacating the award.
11 Even if an arbitrator commits serious error, the award must be confirmed if the arbitrator arguably
12 applied the contract and acted within the scope of his authority. E.g., Colón-Vázquez, 483 F.
13 Supp. 2d at 152-53 (D.P.R. 2007) (citations omitted); Thomas-Díaz, Inc. v. Colombina, S.A., 831
14 F. Supp. 2d 528, 537 (D.P.R. 2011) (upholding arbitration award because arbitrator's reasoning
15 was "plausible and supported by the record, and his findings were founded on valid principles.");
16 Advest, Inc. v. McCarthy, 914 F.2d 6, 8 (1st Cir. 1990) (stating "even where [factual or legal error
17 by an arbitrator] is painfully clear, courts are not authorized to reconsider the merits of arbitration
18 awards") (citations omitted). Therefore, a district court cannot vacate an arbitration award because
19 it disagrees with the arbitrator's findings on the merits of the case, or because it believes that the
20 arbitrator made a factual or legal error. Georgia-Pacific Corp. v. Local 27, United Paperworkers
21 Intern. Union, 864 F.2d 940, 944 (1st Cir. 1988) (citing United Paperworkers Intern. Union, AFL-
22 CIO, 484 U.S. at 36 (1987)). Additionally, an arbitrator's interpretation of a CBA must be

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1 confirmed if “within the four corners of the agreement, there is any plausible basis for that
2 interpretation.” Coastal Oil of New England, Inc. v. Teamsters Local, 134 F. 3d 466, 469 (1st Cir.
3 1998).

4 The Union’s first argument, that the arbitrator erroneously interpreted the facts presented at
5 the hearings, is clearly without merit because it is not a valid basis for vacating an arbitration
6 award. It is well established that it is the arbitrator’s responsibility to determine the weight,
7 relevancy and credibility of evidence. The Court may not stand in the place of the arbitrator for
8 this task, or substitute its own judgment because “the factual findings of the arbitrator are not
9 subject to judicial challenge.” Georgia-Pacific Corp., 864 F.2d at 945. Therefore, the Court will
10 not disrupt the arbitrator’s conclusions regarding various facts that the Union argues were
11 presented at the hearing, including defense attorney José Silva Cofresí’s statement that “the truck
12 was excellent,” that Rodríguez used the emergency break, and that the DVIR was completed after
13 the accident rather than before it. (Docket No. 6-1 at 9-10.)

14 The Union also contends that the Arbitration Award was not issued “in accordance with the
15 law.” (Docket No. 6-1 at 13.) Specifically, the Union argues that the Puerto Rico Wrongful
16 Dismissal Statute, P.R. LAWS ANN. Tit, 29 § 185a et seq (“Law 80”) “does not favor dismissal as a
17 sanction on the first offense” and that a pattern of repeated conduct on the part of the employee is
18 necessary in order to support a finding that his termination was for just cause. Id. The Union
19 posits that because the accident was Rodríguez’s first offense, he should not have been dismissed
20 prior to progressively severe disciplinary measures. Id. at 16. The Union essentially claims that
21 the arbitrator’s adherence to the terms of the CBA in lieu of this interpretation of Law 80 was
22 improper. (Docket No. 6-1 at 15-26.)

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1 Law 80 identifies several circumstances in which an employee's dismissal is justified. An
2 employer must prove just cause for an employee's termination by demonstrating any of the
3 following:

- 4 (a) That the worker indulges in a pattern of improper or
5 disorderly conduct; (b) the attitude of the employee of not
6 performing his work in an efficient manner, or of doing it belatedly
7 and negligently or in violation of the standards of quality of the
8 product produced or handled by the establishment; (c) the
9 employee's repeated violations of the reasonable rules and
10 regulations established for the operation of the establishment
11 provided a full written copy thereof has been opportunely
12 furnished to the employee; (d) full, temporarily or partial closing
13 of the operations of the establishment. Provided, that in those
14 cases in which the company has more than one office, factory,
15 branch or plant, the full, temporary or partial closing of operations
16 of any of these establishments shall constitute just cause for
17 discharge pursuant to this section; (e) technological or
18 reorganization changes as well as changes of style, design or the
19 nature of the product made or handled by the establishment, and
20 changes in the services rendered to the public; (f) reductions in
21 employment made necessary by a reduction in the anticipated or
22 prevailing volume of production, sales or profits at the time of the
23 discharge.

24 Tit. 29 § 185b (a)-(f).

The Court cannot substitute its own interpretation of Law 80 for that of the arbitrator. When the parties bound themselves to the terms of the CBA, they agreed to resolve disputes through the arbitration process, granting the arbitrator the authority to make findings of fact and evaluate the law. E.g., Ramos-Santiago v. United Parcel Serv., 524 F.3d 120, 123 (1st Cir. 2008) (stating "[w]hen parties include an arbitration clause in their collective bargaining agreement, they are choosing to forego a number of legal options in favor of having their disputes regarding the construction of that contract settled by an arbitrator. As this was the bargain the parties struck,

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1 they are bound by the arbitrator’s decision.”). Because the arbitrator cited and considered the plain
2 language of Law 80 in the Arbitration Award, and it is plausible that he concluded Rodríguez’s
3 avoidable runaway accident amounted to performing the job “negligently or in violation of the
4 standards of quality” established by UPS, there is no reason to believe that the arbitrator manifestly
5 disregarded the law in reaching his decision. Consequently, the Union cannot now attempt to avail
6 itself of another interpretation of either the facts or the law by this Court. Regardless of any error
7 of law or fact, the Court must uphold the Arbitration Award in the absence of a showing that the
8 arbitrator knew the applicable law and intentionally disregarded it.

9 In the Arbitration Award, the arbitrator referenced the relevant provisions of the CBA.
10 (Docket No. 6-2 at 5-6.) The arbitrator explained that at the hearings, UPS successfully
11 demonstrated that Rodríguez caused an avoidable runaway accident, which is ground for
12 immediate discharge under the CBA. Id. at 7-8; 11-12. The arbitrator also noted that the Union
13 did not present any evidence absolving Rodríguez of wrongdoing. Id. at 11. Interpreting the plain
14 language of the CBA, the arbitrator explained that Article 15 calls for the summary dismissal of an
15 employee who causes an avoidable runaway accident. Id. The arbitrator also interpreted Law 80
16 and Puerto Rico caselaw in concluding that UPS had just cause for terminating Rodríguez’s
17 employment because of the avoidable runaway accident. Id. at 8-10.

18 Although the Union casts the grounds for vacatur as manifest disregard of the law, it is
19 actually complaining of factual and legal error. The Union challenges the arbitrator’s rationale for
20 his decision. However, the Union points to nothing in the record to establish that the arbitrator
21 deliberately disregarded what he knew to be the law when he determined that Rodríguez was
22 dismissed for good cause. Rather, the arbitrator relied upon case law, statutory language and the

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1 plain language of the CBA, as applied to the facts as he found them, and concluded that “UPS did
2 not abuse its management authority or prerogatives upon dismissing Plaintiff” and that the
3 dismissal of Rodríguez was justified. Id. at 12.

4 Additionally, the Union’s contention that Rodríguez was denied due process is unfounded.
5 The arbitrator noted that Rodríguez “had timely knowledge about the effectiveness and content of
6 the applicable collective bargaining agreement and of the procedure or standard about how to park
7 a UPS vehicle, that is: (1) put the gear shift “in first gear,” since it is the strongest gear, (2) adjust
8 the hand or emergency brake, and (3) turn the wheels towards the curb.” (Docket No. 6-2 at 7.)
9 The arbitrator also noted that the parties chose to govern their relationship with a CBA that
10 stipulates, among other things, the procedure for resolving complaints and controversies and that
11 UPS retained “the exclusive right to administrate its business,” obligating the parties to “comply
12 with what was expressly agreed upon and of the consequences that derive from the agreement . . .”
13 Id. at 11.

14 It is evident from the Arbitration Award that the arbitrator considered the language of the
15 CBA against the backdrop of Puerto Rico law and concluded that Rodríguez’s dismissal was
16 justified. Therefore, the Court shall make no determination as to the correctness of the arbitration
17 award or whether it would have reached the same conclusion, instead finding that the arbitrator
18 reasonably construed the pertinent clauses of the CBA. See, e.g., United Paperworkers Int’l
19 Union, 484 U.S. at 38 (stating if the arbitrator is “even arguably construing or applying the
20 contract and acting within the scope of his authority” the court may not overturn the arbitrator’s
21 decision.).

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1 **IV. Conclusion**

2 In sum, the Court **GRANTS** the defendant's motion for summary judgment and
3 **AFFIRMS** the Arbitration Award.

4 **SO ORDERED.**

5 In San Juan, Puerto Rico this 2nd day of March, 2016.

6 *s/ Gustavo A. Gelpí*
7 GUSTAVO A. GELPI
8 United States District Judge
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