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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0565-14T2

C.D.,

Appellant,

v.

NEW JERSEY DEPARTMENT OF
CORRECTIONS,

Respondent.

Submitted October 18, 2016 – Decided April 19, 2017

Before Judges Fasciale and Kennedy.

On appeal from the New Jersey Department of
Corrections.

C.D., appellant pro se.

Christopher S. Porrino, Attorney General,
attorney for respondent (Lisa A. Puglisi,
Assistant Attorney General, of counsel; Marvin
L. Freeman, Deputy Attorney General, on the
brief).

PER CURIAM

C.D. appeals from an August 21, 2014 final agency decision
by the New Jersey Department of Corrections (NJDOC) denying his
request to implement a commissary store specifically for the

special treatment unit (STU) residents of the Adult Diagnostic and Treatment Center (ADTC). We affirm.

C.D. is an involuntarily civilly committed person and is a resident of the STU at the ADTC. In July 2014, he requested that the NJDOC implement the special commissary store strictly for STU residents. An Assistant Superintendent of the NJDOC did not grant C.D.'s request but informed him that his "request will be considered in the future." In its final agency decision, the NJDOC then upheld that determination.

On appeal, C.D. argues the following point:

THE [STU] ERRED WHEN IT DENIED [C.D.'s] ADMINISTRATIVE REMEDY REQUEST TO IMPLEMENT A COMMISSARY STORE STRICTLY FOR THE RESIDENT POPULATION, BECAUSE THE [NJDOC'S] COMMISSARY STORE DOES NOT ADEQUATELY CONTRIBUTE TO THE RESIDENT WELFARE FUND, N.J.A.C. 10:36A-10.1(A)[(1)].

Our review of a final agency decision is limited. In re Carter, 191 N.J. 474, 482 (2007). We will reverse a final agency decision only if "it is arbitrary, capricious, or unreasonable, or [if] it lacks fair support in the record." In re Herrmann, 192 N.J. 19, 27-28 (2007). Here, the NJDOC's actions were neither arbitrary, capricious nor unreasonable. We conclude that C.D.'s argument is without sufficient merit to warrant a written decision. R. 2:11-3(e)(1)(E). We nevertheless add the following brief remarks.

C.D. contends that residents at the STU have a more expansive possession policy than inmates, and therefore residents should have a separate STU commissary. C.D. concedes, however, he has access to the commissary used by other inmates and residents. As a result, he has not shown that any restrictions to purchase additional items amount to punishment. In other words, the NJDOC had not denied C.D. any rights to which he is entitled. See Bell v. Wolfish, 441 U.S. 520, 535-37, 99 S. Ct. 1861, 1872-73, 60 L. Ed. 2d 447, 465-68 (1979). And C.D. has failed to demonstrate that the inmate commissary is deficient or lacking in any way.

Moreover, the NJDOC did not deny his request for the STU commissary. The NJDOC advised him that it would consider his request in the future. To the extent that such a response amounts to a denial, the NJDOC has the authority and responsibility to determine the number of commissaries it will operate in its institutions. See Russo v. N.J. Dep't of Corr., 324 N.J. Super. 576, 583 (App. Div. 1999) (explaining that the NJDOC has "broad discretionary power to '[d]etermine all matters of policy and regulate the administration of [its] institutions'" (first alteration in original) (quoting N.J.S.A. 30:1B-6(g))).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION