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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2372-14T1

TARON HILL,

Appellant,

v.

NEW JERSEY DEPARTMENT
OF CORRECTIONS,

Respondent.

Submitted February 2, 2017 – Decided April 21, 2017

Before Judges Hoffman and O'Connor.

On appeal from the New Jersey Department of
Corrections.

Taron Hill, appellant pro se.

Christopher S. Porrino, Attorney General,
attorney for respondent (Lisa A. Puglisi,
Assistant Attorney General, of counsel; Nicole
E. Adams, Deputy Attorney General, on the
brief).

PER CURIAM

Taron Hill, a Trenton State Prison inmate, appeals from the
December 2, 2014 final disciplinary decision of the Department of
Corrections (DOC). For the following reasons, we affirm.

I.

On November 17, 2014, a hearing officer found Hill guilty of attempting to bribe a staff member and attempting to engage in conduct which interfered with the security or orderly running of the prison, in violation of N.J.A.C. 10A:4-4.1(a). The charges arose from a lengthy investigation into a conspiracy to pass bribes and obtain contraband inside the prison via corrupt corrections officers and inmate family members. The DOC's Special Investigations Division (SID) conducted the investigation.

The investigation revealed Hill conspired with other inmates to bribe a senior corrections officer. The investigation further revealed Hill solicited his mother to establish a relationship with a corrections officer and thereafter pass bribes and contraband to him.

Based on this information, the DOC charged Hill, in part, with *.751, giving or offering any official or staff member a bribe or anything of value; and *.803/*.306, attempting to engage in conduct which disrupts or interferes with the security or orderly running of the correctional facility. The disciplinary hearing officer later modified the *.751 charge to *.803/*.751, attempting to give or offer any official or staff member a bribe or anything of value.

On October 10, 2014, Sergeant C. Spires served Hill with the disciplinary charges and referred the charges to a disciplinary hearing officer for further action. The initial disciplinary hearing occurred on October 14, 2014. The proceeding was postponed several times, causing it to conclude on November 17, 2014. The hearing officer determined exceptional circumstances warranted the delay. Specifically, the hearing officer needed to review the extensive evidence produced by the SID investigation to have a complete understanding of the incident. The hearing officer further determined Hill suffered no prejudice in preparing his defense because of the delay.

Hill pled not guilty, and requested and received the assistance of counsel substitute. Hill did not make an oral statement during the hearing, but instead submitted a written statement to the hearing officer. Hill also declined the opportunity to call witnesses on his behalf and to cross-examine adverse witnesses.

Following the November 17, 2014 hearing, the hearing officer adjudicated Hill guilty of the aforementioned charges and imposed a sanction of 15 days' detention, 365 days' loss of commutation time, 365 days' administrative segregation, 365 days' loss of television, phone and radio privileges, and confiscation of \$850 for the *.803/*.751 charge. The hearing officer also imposed 15

days' detention, 365 days' loss of commutation time, and 365 days' administrative segregation for the *.803/*.306 charge. The hearing officer noted Hill's violations warranted these sanctions in order to deter inmates from attempting and conspiring to disrupt the security of the institution.

On November 19, 2014, defendant filed an administrative appeal of the findings of guilt. On December 2, 2014, Administrator Stephen D'Ilio upheld the hearing officer's findings and denied Hill's appeal. This appeal followed.

II.

Prison disciplinary hearings are not part of a criminal prosecution, and "thus the full panoply of rights due a defendant in such a proceeding does not apply." Avant v. Clifford, 67 N.J. 496, 522 (1975) (quoting Morrissey v. Brewer, 408 U.S. 471, 480, 92 S. Ct. 2593, 2600, 33 L. Ed. 2d 484, 494 (1972)). Nonetheless, prisoners receive certain limited due process protections. Ibid. These protections include written notice of the charges at least twenty-four hours prior to the hearing, an impartial tribunal which may consist of personnel from the central office staff, a limited right to call witnesses, the assistance of counsel substitute, and a right to a written statement of evidence relied upon and the reasons for the sanctions imposed. Id. at 525-33; see also McDonald v. Pinchak, 139 N.J. 188, 193-96 (1995). "The

current regulations . . . strike the proper balance between the security concerns of the prison, the need for swift and fair discipline, and the due process rights of the inmates." McDonald, supra, 139 N.J. at 202.

We exercise limited review of an administrative agency's final decision. In re Herrmann, 192 N.J. 19, 27 (2007). We will affirm the decision "unless there is a clear showing that it is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record." Id. at 27-28; see also Henry v. Rahway State Prison, 81 N.J. 571, 579-80 (1980).

Hill argues he did not receive notice of the charges in a timely manner. In September of 2014, he received notice of criminal charges for allegedly aiding or conspiring with others to bribe staff members, money laundering, and official misconduct. Forty-five days later, Hill received notice of the institutional charges arising from the same facts. Nevertheless, we conclude Hill's claim lacks merit.

An inmate should receive the disciplinary report "within 48 hours after the violation unless there are exceptional circumstances." N.J.A.C. 10A:4-9.2. However, the failure to follow the time limit does not require the dismissal of a disciplinary charge. N.J.A.C. 10A:4-9.9(a). In deciding whether to dismiss a disciplinary charge for a late filing, hearing

officers should consider the length and reasons for the delay, whether the inmate suffers any prejudice in preparing his defense, and the seriousness of the alleged infraction. Ibid.

The hearing officer in this case found exceptional circumstances justified the delay. The hearing officer determined the delay occurred because of protocols allowing the prosecutor time to develop evidence to obtain any necessary search or arrest warrants, thereby reducing the possibility of the criminal cases becoming tainted. Further, Hill has not shown, nor did the hearing officer find, that he suffered any prejudice resulting from the delay. Thus, exceptional circumstances existed justifying the delay in serving the disciplinary charges.

Hill also claims the hearing officer violated his due process rights by postponing the hearing while he was in pre-hearing detention. Hill entered pre-hearing detention on October 9, 2014. The initial hearing took place several days later, on October 14, 2014. Postponements occurred on October 16, 20, 22, 24, 27, 29 and 31, as well as November 3, 5, 7, and 10.

Inmates confined in pre-hearing detention shall receive a hearing within three calendar days absent exceptional circumstances. N.J.A.C. 10A:4-9.8(c). "Additional postponements shall be granted only in exceptional circumstances." N.J.A.C. 10A:4-9.7(b). As noted, exceptional circumstances justified the

delay because the hearing officer needed time to review the extensive amount of evidence. Therefore, we conclude Hill's claim lacks merit.

Hill also claims the confidential evidence used against him deprived him of the right of confrontation. Relatedly, Hill argues the non-confidential evidentiary documents do not qualify as substantial evidence to support a finding of guilt.

An adjudication of guilt requires support by substantial evidence. N.J.A.C. 10A:4-9.15(a). Substantial evidence requires "such evidence as a reasonable mind might accept as adequate to support a conclusion." In re Application of Hackensack Water Co., 41 N.J. Super. 408, 418 (App. Div. 1956). The substantial evidence standard permits an agency to apply its expertise where the evidence supports more than one conclusion. In re Vineland Chem. Co., 243 N.J. Super. 285, 309 (App. Div.), certif. denied, 127 N.J. 323 (1990). Where substantial evidence supports the agency's decision, we will not substitute our own judgment. Henry, supra, 81 N.J. at 579-80.

A hearing officer may rely on confidential evidence where the adjudication contains a "concise summary of the facts on which the Disciplinary Hearing Officer . . . concluded that the informant was creditable or . . . reliable;" and the informant's statement "is factual rather than a conclusion, and based on the informant's

personal knowledge of the matters contained in such statement."
N.J.A.C. 10A:4-9.15(b)(1).

Applying this standard, we find the hearing officer's use of confidential evidence did not deny Hill's right to confrontation. Exhibits A-12 and A-15 provide the requisite summaries of the confidential evidence. Specifically, exhibit A-12, identified as the hearing officer's "NOTE," contains factual summaries of civilian interviews. Exhibit A-15, "Summary of Confidential Material," notes copies of money orders and Hill's account statements verified this information. Additionally, the hearing officer explained the need to maintain confidentiality arose from "a desire to balance information that regular people, who will review this work product, need not know the names of outside civilians, what they did to obtain the attention of Law Enforcement Officials, and what steps the Law Enforcement Officials took to verify this wrongdoing and take corrective action." Therefore, Hill's objection to consideration of this evidence lacks merit.

Accordingly, we cannot say the Hearing Officer failed to base the decision on substantial credible evidence. The SID investigation revealed Hill and his mother attempted to bribe corrections officers and bribe corrupt staff to smuggle contraband into the prison. The hearing officer relied on copies of money orders sent to Hill, Hill's trust account statements, and other

information. As noted, the confidential information included statements from six civilians, two of whom had direct involvement in this matter. The factual summary stated Hill had a family member receive money from various individuals, which Hill then received.

Further, Hill failed to present any evidence to contradict the evidence submitted. Hill declined to cross-examine any witness presented and failed to present any witnesses of his own. As such, we find Hill's argument again lacks merit.

Hill claims a due process violation because he could not prepare a defense against Senior Corrections Officers Eric Davis and Dawson. The disciplinary report referenced individuals known as "Dawson" and "Senior Corrections Officer Eric Davis," noting Hill conspired to bribe Davis and solicited his mother to meet with Dawson. According to Hill, none of the non-confidential evidentiary materials provided to him mentioned either of these individuals, thus depriving him of an opportunity to prepare a defense against them. He further contends any confidential evidence identifying these officers should have been disclosed.

However, Hill acknowledged in his written statement that the hearing officer previously denied his request to review any statements from Dawson or "any of the eight alleged confidential informants who the [hearing officer] claim[ed] to have written

statements against me." As discussed, the hearing officer properly relied on the confidential and non-confidential evidence, which included civilian statements and copies of money orders. The summary of confidential evidence and the related materials provided sufficient basis for adjudicating Hill guilty. We therefore conclude any absence of "Davis" or "Dawson" from certain materials did not violate Hill's due process rights.

Affirm.

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



CLERK OF THE APPELLATE DIVISION