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APPROVAL OF THE APPELLATE DIVISION**

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-4959-15T3

LESTER ALFORD,

Appellant,

v.

NEW JERSEY DEPARTMENT  
OF CORRECTIONS,

Respondent.

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Submitted April 17, 2018 – Decided April 27, 2018

Before Judges Hoffman and Mayer.

On appeal from the New Jersey Department of  
Corrections.

Lester Alford, appellant pro se.

Gurbir S. Grewal, Attorney General, attorney  
for respondent (Melissa Dutton Schaffer,  
Assistant Attorney General, of counsel;  
Suzanne Davies, Deputy Attorney General, on  
the brief).

PER CURIAM

Lester Alford, a prison inmate, appeals from a finding denying  
him reinstatement to his housing and work assignments after he was  
released from temporary close custody (TCC). We remand this matter

to the Department of Corrections (DOC) for further proceedings consistent with this opinion.

I

Appellant is presently incarcerated at the New Jersey State Prison in Trenton. He is serving a maximum fifty-year sentence, with a minimum of thirty years, for murder and unlawful possession of a weapon.

From February 16, 2016 to May 17, 2016, appellant's housing and work assignments were located on North Unit 2A; appellant worked as a barber seven days a week and earned \$2.50 per day. On May 17, 2016, the prison placed appellant in TCC, and the following day, it reassigned him to a new housing unit. Appellant lost his position as a barber on North Unit 2A, and the prison reassigned him to a five-day-a-week position as a cell sanitation worker, which paid \$1.40 per day.

On May 27, 2016, defendant filed a grievance, stating,

I was transferred from one unit to another in which my [b]arber job was taken. [N.J.A.C.] 10A[:13] states I can only lose my institut[ional] job if I am charged with an infraction and or refuse to do my job duties which I've done neither . . . . I respectfully ask that someone look into this.

Appellant filed several other grievances iterating that complaint and emphasized a prison Inmate Handbook passage that provides, "[u]pon release from [c]lose [c]ustody[, ] an inmate who

is found [not guilty] will be returned to his current job assignment and resume being paid at his current rate . . . ." Appellant also repeatedly inquired into why he was placed in TCC, and what he did to have his employment and housing unit changed.

In an inter-office memorandum dated July 1, 2016, the prison rejected appellant's grievances, stating:

Due to the nature of the concern that brought about your TCC placement and subsequent housing reassignment, the former detail as [b]arber on Unit 2A, is not available. As you stated, pursuant to the [prison's Inmate] [H]andbook, 'upon release from close custody . . . an inmate who is found not guilty will be returned to his current job assignment,' . . . should be clarified in this instance. In order to effectively manage the [i]nstitution, at times a reassignment of an inmate's housing is in the best interest of the [i]nstitution, as in your current circumstance. As such, the [b]arber position on 2A is not an option for you at this time.

On July 11, 2016, the prison assigned appellant a barber position on a new unit. Appellant disputes this assignment, arguing he should be reinstated to his prior work assignment on North Unit 2A, as well as receive back pay and work time credits. For the reasons that follow, we vacate and remand.

## II

Preliminarily, we address the DOC's contention that appellant's argument is moot because the prison assigned him a barber position on his new housing unit. Appellant's brief,

however, explicitly requests he be "re-instate[d] [to his] job and back pay . . . . [as well as] receive [work] com[m]utation credits towards his sentence from the time that he was removed from his [initial] barber[] position."

Therefore, although the record reflects the prison assigned appellant to a new barber position, it did not do so on North Unit 2A, as appellant requested. Additionally, the DOC failed to address appellant's argument that he is entitled to back pay and work time credits. Accordingly, the disputed issues have not been resolved. See De Vesa v. Dorsey, 134 N.J. 420, 428 (1993) ("A case is technically moot when the original issue presented has been resolved, at least concerning the parties who initiated the litigation.").

### III

Our review of administrative actions is "severely limited." George Harms Constr. Co. v. N.J. Tpk. Auth., 137 N.J. 8, 27 (1994) (citation omitted). Accordingly, "our role is limited to determining: (1) whether the agency's decision conforms with relevant law; (2) whether the decision is supported by substantial credible evidence in the record; and (3) whether, in applying the law to the facts, the administrative agency clearly erred in reaching its conclusion." Conley v. Dep't of Corrections, 452

N.J. Super. 605, 613 (App. Div. 2018) (citing In re Stallworth, 208 N.J. 182, 194 (2011)).

We hold the record before us lacks sufficient documentation to perform a meaningful review of the DOC's decision. The prison's inter-office memorandum neither provides an explanation as to why appellant's relocation would benefit the institution nor does it explain the nature of the concern that resulted in appellant being placed in TCC. Moreover, the DOC's actions may be in direct conflict with the prison's Inmate Handbook, which provides that inmates who are found not guilty after being released from TCC be reinstated to their housing and job assignments. Additionally, the record lacks findings as to appellant's guilt or innocence.


Moreover, the DOC, citing Trantino v. Department of Corrections, 168 N.J. Super. 220, 225 (App. Div. 1979), argues "work credits and prison pay are only to be awarded for actual work performed." This assertion, however, contradicts N.J.A.C. 10A:13-4.2(e), which provides: "Inmates shall be paid wages and, if appropriate, receive work time credits for the day(s) missed from work in those cases where the inmate is withheld from work pending a disciplinary hearing adjudication that results in a not guilty decision." Without knowing the reasons the prison placed appellant in TCC, or whether the DOC made findings as to

appellant's guilt or innocence, we are unable to determine whether the agency clearly erred in denying him the remedy he requests.

Accordingly, we vacate and remand to the DOC for reconsideration. Before reaching a decision on remand, the DOC should address appellant's arguments, including his contention that he is entitled to reinstatement to his prior work assignment, back pay, and work time credits. The DOC should also address appellant's request for an explanation as to why he was placed in TCC.<sup>1</sup>

Vacated and remanded. We do not retain jurisdiction.

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

  
CLERK OF THE APPELLATE DIVISION

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<sup>1</sup> We recognize the DOC may have a valid reason for not releasing some or all of this information; in such event, the DOC should so state and provide such information as may be safely released.