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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-5367-15T1

RAHGEAM JENKINS,

Appellant,

v.

NEW JERSEY DEPARTMENT  
OF CORRECTIONS,

Respondent.

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Submitted February 13, 2018 — Decided May 31, 2018

Before Judges Sumners and Moynihan.

On appeal from the New Jersey Department of  
Corrections.

Rahgeam Jenkins, 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

Rahgeam Jenkins, currently incarcerated at Northern State  
Correctional Facility, appeals from a final agency decision of the  
Department of Corrections (DOC) that he committed prohibited act

.305, "lying, providing a false statement to a staff member," and prohibited act \*.306, "conduct which disrupts or interferes with the security or orderly running of the correctional facility." N.J.A.C. 10A:4-4.1(a). Because the decision failed to provide a disposition on \*.306 and did not set forth the reasons for upholding the hearing officer's decision on .305, we reverse and remand.

On June 23, 2016, Jenkins filed a remedy form complaint that he was assaulted and injured by a correction officer (CO). In the ensuing investigation, DOC Sergeant N. Rodriguez reviewed a surveillance recording of the alleged incident that depicted Jenkins being pat frisked by the CO when Jenkins spun around in a confrontational manner. When the CO sought to escort Jenkins to a holding cell, Jenkins refused to cooperate, which caused a delay in other inmates going to dinner. Consequently, Jenkins was charged with prohibited acts .305 and \*.306. Rodriguez's investigation concluded the evidence supported the charges and referred the matter to a hearing officer.

At the DOC disciplinary hearing on June 29, Jenkins claimed that the CO assaulted him by touching him under his arms, and denied stopping inmate movement within the correctional facility. In deciding that Jenkins was guilty of .305, the hearing officer explained:

Inmate wrote a remedy form complaint stating he was assaulted & injured. He went to medical & never stated that he was injured during the tie[r] two movement. He stated he went back to cell & was feeling better so he had no complaints but he kept bringing it up when questioned about his remedy form. The video was reviewed by staff & there was no assault seen on the video[.] The inmate felt he should not have been confronted by staff because he wanted to explain whatever he wanted to explain to the [CO]. The tie[r] two area is very busy & when the inmate put his arms up with a bowl in it (being confrontational) the inmate was moved to the side by the officer. There was no evidence of an assault. Charges upheld.

As for the charge of \*.306, the hearing officer determined Jenkins was guilty because:

Inmate stated he was assaulted & requested video of the tie[r] two area. The video was seen by the inmate paralegal and courtline staff. The inmate is seen being searched on video. Inmate turns around with a bowl in his hand & puts his arm up at the [CO]'s face. The [CO] takes the inmate['s] arm & escorts him over to the side with other officers. They talk to him & decide what to do with the inmate[.] [T]he inmate is being confrontational with staff there is no evidence of an assault of any inappropriate action by staff on the video[.] [T]he inmate felt he should be able to talk to the staff in the busy area & do whatever he wants[.] [C]harge is upheld.

The hearing officer sanctioned Jenkins to ninety-five days administrative segregation, fifteen days loss of recreational

privileges, 180 days loss of commutation time, and ten days loss of radio/TV privileges.

Dissatisfied with the decision, Jenkins filed an administrative appeal contending the hearing officer's decision was based on a "violation of Standards" and "misinterpretation of the facts" in finding him guilty of prohibited acts .305 and \*.306, and sought a plea of leniency. The Associate Administrator denied the appeal, issuing the final agency decision using a DOC Disposition of Disciplinary Appeal form by checking a box indicating: "The decision of the Hearing Officer is upheld." Below that box in a space provided for an "Explanation," is a hand-written notation: "The sanction of the Hearing Officer is appropriate for the infraction. Therefore no leniency will be considered." Despite Jenkins' appeal of both disciplinary charges, the form also only mentions the .305 charge.

Jenkins raises the following arguments for our consideration:

[POINT I]

RESPONDENT[] FILED FALSE REPORTS IN  
RETALIATION FOR ENGAGING IN CONSTITUTIONALLY  
PROTECTED ACTIVITY IN VIOLATION OF N.J.  
CONSTITUTION ART.I, PARA 6, [N.J.A.C.]10A:1-  
4.4(b) AND [APPELLANT'S] FIRST AMENDMENT  
RIGHTS.

[()]Not raised below[.]

[POINT II]

THE DENIAL OF AN IMPARTIAL ADJUDICATION  
VIOLATED THE APPELLANT[']S DUE PROCESS RIGHTS.  
[(]Not raised below[.)]

[POINT III]

THE FINDING OF GUILT WAS NOT BASED ON  
SUBSTANTIAL CREDIBLE EVIDENCE IN THE RECORD.

[POINT IV]

APPELLANT WAS DENIED THE RIGHT TO APPEAL THE  
ADMINISTRATIVE DECISION BY RESPONDENT[']S  
FAILING TO INCLUDE THE [\*].306 CHARGE ON THE  
DISPOSITION OF DISCIPLINARY APPEAL IN  
VIOLATION OF APPELLANT'S DUE PROCESS RIGHTS.  
(Not raised below.)

We first address Jenkins' contention in Point IV that he was denied the right to appeal because the final agency decision did not mention the \*.306 charge and failed to state the reasons that the hearing officer's guilty finding on the .305 charge was upheld. Although he acknowledges the argument was not raised below, our general principal that we decline to consider arguments not raised at the final agency proceeding – unless they involve issues of jurisdiction or matters of public concern – does not apply here. See Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973) (citation omitted). Because Jenkins contends there were deficiencies in the agency's final decision-making, his right to appeal the decision under Rule 2:2-3(a)(2) to our court was

properly exercised, and there was no obligation that he present those alleged deficiencies to the agency. And as for the merits of his argument, we agree.

We are aware that correctional institutions hold many disciplinary hearings where no verbatim record is kept of the proceedings, nor detailed findings made. Although we have a limited role in reviewing agency decisions, we are not permitted to rubber stamp decisions that do not have an articulated rational basis. Mejia v. N.J. Dep't of Corr., 446 N.J. Super. 369, 376-77 (App. Div. 2016). Our review is of no value if we cannot decipher the basis for the agency's decision. See In re Issuance of Permit by Dep't of Env'tl. Prot., 120 N.J. 164, 172-73 (1990) (stating that an administrative agency performing a quasi-judicial function is obligated to set forth basic findings of facts supporting the ultimate conclusion so the reviewing tribunal may sufficiently review whether the actions were arbitrary and capricious).

Here, the final agency decision only addresses the sanctions imposed; fails to indicate the reasons for upholding the hearing officer's decision on charge .305; and fails to mention the disposition and reasons thereof as to charge \*.306. We therefore reverse and remand so that the agency can issue an appropriate final decision agency sanction. Because of our remand, we do not address Jenkins' remaining arguments.

Reversed 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