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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-0410-20**

CHRISTOPHER RADEL,

Appellant,

v.

**NEW JERSEY DEPARTMENT
OF CORRECTIONS,**

Respondent.

Submitted March 8, 2022 – Decided April 27, 2022

Before Judges Fisher and Currier.

On appeal from the New Jersey Department of Corrections.

Christopher Radel, appellant pro se.

Matthew J. Platkin, Acting Attorney General, attorney for respondent (Jane C. Schuster, Assistant Attorney General, of counsel; Christopher C. Josephson, Deputy Attorney General, on the brief).

PER CURIAM

Appellant Christopher Radel, a state inmate, appeals from the final decision of the New Jersey Department of Corrections (DOC) after a finding of guilt of committing a prohibited act, *.004, fighting with another person. Appellant contends his due process rights were violated in the administrative proceeding and during the disciplinary appeal, and the hearing officer wrongfully disregarded his self-defense claim. We affirm.

A DOC officer observed appellant and his cellmate fighting each other in their cell. The officer called for assistance. Although the officer ordered the inmates to stop fighting, they did not do so until other officers arrived and used oleoresin capsicum (pepper spray) to stop the fight. Both inmates sustained significant facial injuries and were taken to the hospital.

Appellant was charged with committing prohibited act *.004, fighting with another person, in violation of N.J.A.C. 10A:4-4.1(a). Prior to the disciplinary hearing, appellant requested and was granted the assistance of counsel substitute. He pleaded not guilty, submitted a written statement stating he was acting in self-defense, and requested a polygraph examination.

A prison administrator denied appellant's request for a polygraph, finding there were no issues of credibility regarding the statement of the reporting

officer or the subsequent investigation, and there were no findings of new evidence.

The hearing officer found appellant guilty of the charge. The officer noted the reports of multiple officers who had observed appellant and his cellmate actively fighting. Photographs revealed both men had extensive injuries requiring medical treatment. The hearing officer further stated appellant's claim of self-defense was not supported by the evidence as both inmates claimed self-defense and both men were actively fighting even after they were ordered to stop.

Appellant filed an administrative appeal in which he reiterated his claim of self-defense. On September 4, 2020, Assistant Superintendent Jordan Thomas upheld the decision finding: the hearing officer complied with the procedural safeguards prescribed under N.J.A.C. 10A, there was no misinterpretation of the facts, and appellant was not entitled to leniency.

On appeal, appellant renews his claim of self-defense and challenges the denial of his request for a polygraph test.

Our role in reviewing a prison disciplinary decision is limited. Figueroa v. N.J. Dep't of Corr., 414 N.J. Super. 186, 190 (App. Div. 2010). Generally, the decision must not be disturbed on appeal unless it was arbitrary, capricious

or unreasonable, or lacked the support of "substantial credible evidence in the record as a whole." Henry v. Rahway State Prison, 81 N.J. 571, 579-80 (1980).

Under N.J.A.C. 10A:4-9.15(a), a "finding of guilt at a disciplinary hearing shall be based upon substantial evidence that the inmate has committed a prohibited act." Here, numerous witness statements supported the hearing officer's finding that appellant was fighting with his cellmate. The men were seen fighting, they did not stop fighting despite orders to do so, and did not stop fighting until the officers used pepper spray. Both men were seriously injured. Both men claimed self-defense. The hearing officer's determination that the evidence did not support appellant's claim of self-defense is not arbitrary or capricious.

We also reject appellant's argument that he should have been granted a polygraph examination of the correction officers. A request for a polygraph examination will only be granted in limited circumstances, N.J.A.C. 10A:3-7.1(a), and "[a]n inmate's request for a polygraph examination" alone is insufficient cause to grant the request. N.J.A.C. 10A:3-7.1(c). A polygraph may be requested by the Administrator or designee either "[w]hen there are issues of credibility regarding serious incidents or allegations which may result in a disciplinary charge" or "when the Administrator or designee is presented with

new evidence or finds serious issues of credibility" in conjunction with the reinvestigation of a disciplinary charge. N.J.A.C. 10A:3-7.1(a).

Here, there were no credibility issues sufficient to warrant a polygraph test. Several corrections officers submitted reports on the date of the incident detailing what happened. Their statements were consistent and constituted "sufficient corroborating evidence" to "negate any serious question of credibility." Ramirez v. Dep't of Corr., 382 N.J. Super. 18, 24 (App. Div. 2005). There was no extrinsic evidence from another inmate or a staff member challenging the veracity of the officers' statements. See ibid. The only challenge to the officers' statements was appellant's own statement. An inmate's denial of a disciplinary charge against him is insufficient to warrant a polygraph examination. Id. at 23-24. There was no error in denying appellant a polygraph examination.

The substantial evidence presented at the hearing supported the hearing officer's finding of guilt on the charge and the imposed sanctions. The decision of the DOC upholding the charge was not arbitrary, capricious, or unreasonable.

Affirmed.

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



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