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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-4568-19**

ARTHUR NEGRON, JR.,

Appellant,

v.

**NEW JERSEY DEPARTMENT
OF CORRECTIONS,**

Respondent.

Submitted March 31, 2022 – Decided April 13, 2022

Before Judges Haas and Alvarez.

On appeal from the New Jersey Department of Corrections.

Arthur Negron, Jr., appellant pro se.

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

PER CURIAM

Arthur Negron, Jr., an inmate in state prison, appeals from the New Jersey Department of Corrections' (DOC) October 21, 2020, final agency decision denying his request for a "rule exemption." The exemption would have reduced his custody status. We affirm.

Negron was housed in the Union County jail and disciplined for a fighting incident before he was sentenced to prison. After sentence, he was transferred to a state facility and classified based on a numerical assignment system. The fighting incident received a "5" on the instrument based on the category designated for institutional violence in the prior five years. As a result, when factored in with the other categories, such as the severity of the sentence for which he was imprisoned, Negron's total placed him in the medium custody range. Were he granted the rule exemption allowing the "5" to be deducted, as it was based solely on the Union County incident, his total would, at least numerically, qualify him for minimum custody status. He contends on appeal, as he did during the DOC administrative process, that the classification significantly restricts him because he cannot obtain proper medical care for his asthma condition or be approved for a community release program while in medium custody status.

Negron contends that the Union County jail incident, from which he took no appeal, should not be included in his history because while there, he was not given a copy of the state prison handbook that would have notified him that certain events, even if they occurred while he was at the jail, would be included in subsequent prison classification calculations. He also contends that as long as he was in jail, he should not have been subject to state prison rules and consequences, and that the fight therefore should not have been included in his prison classification history.

Our review of an agency's administrative decision is limited in two respects. Ordinarily, we do not reverse unless the decision is found to be "arbitrary, capricious or unreasonable or is not supported by substantial credible evidence in the record as a whole." Henry v. Rahway State Prison, 81 N.J. 571, 579-80 (1980). An agency's interpretation of the controlling statutes and regulations is entitled to deference. In re Appeal by Progressive Cas. Ins. Co., 307 N.J. Super. 93, 102 (App. Div. 1997).

The DOC is an agency that has been specifically granted broad discretion in all matters regarding the administration of a prison facility. Russo v. N.J. Dep't of Corr., 324 N.J. Super. 576, 583 (App. Div. 1999).

There is no constitutional right to a less restrictive custody status. Smith v. N.J. Dep't of Corr., 346 N.J. Super. 24, 29 (App. Div. 2001). Inmates such as Negron do not have a constitutionally protected liberty interest in a reduced custody status. Ibid. Classification of state prisoners is viewed as an exercise of the Commissioner of Corrections' sole discretion. N.J.S.A. 30:1B-6, -9; N.J.S.A. 30:4-91.1 to -91.3, -92. Indeed, a reduction in custody status is a matter of privilege. Smith, 346 N.J. Super. at 30 (citing N.J.A.C. 10A:9-4.2). These classifications decisions are struck down only when arbitrary or lacking in "procedural fairness in the administrative process." White v. Fauver, 219 N.J. Super. 170, 180 (App. Div. 1987), modified sub nom. Jenkins v. Fauver, 108 N.J. 239 (1987).

Negron had no procedural due process entitlement to prior notice that misconduct while at the county jail might have classification repercussions once he was transferred to a state prison facility. The law does not require it, nor is there any other reason making the agency's reliance on that information unfair. Inmates are routinely transferred in and out of various housing systems, and it is both impractical and constitutionally unnecessary to warn inmates that their conduct while at a first facility may affect their classification while at a second.

A prisoner's reduced custody status in and of itself is a privilege, and not a right. N.J.A.C. 10A:9-4.2. Nothing makes the DOC's inclusion of the Union County fighting in the state prison calculation unlawful or otherwise improper. Negron is not entitled to a "rule exemption."

Affirmed.

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



CLERK OF THE APPELLATE DIVISION