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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0410-21**

JASPER FRAZIER,

Appellant,

v.

**NEW JERSEY DEPARTMENT
OF CORRECTIONS,**

Respondent.

Submitted December 20, 2022 - Decided January 23, 2023

Before Judges Rose and Paganelli.

On appeal from the New Jersey Department of Corrections.

Jasper Frazier, appellant pro se.

Matthew J. Platkin, Attorney General, attorney for respondent (Donna Arons, Assistant Attorney General, of counsel; Christopher C. Josephson, on the briefs).

PER CURIAM

Jasper Frazier is imprisoned in the State's correctional system. Frazier appeals, pro se, from two final agency decisions of the New Jersey Department of Corrections (DOC), upholding adjudications and sanctions for committing prohibited act *.254, "refusing to work, or to accept a program or housing unit assignment." N.J.A.C. 10A:4-4.1(a)(2)(xvi).¹ We affirm.

I.

A.

On September 13, 2021, Frazier was transferred from Northern State Prison (NSP) to South Woods State Prison (SWSP). Upon his arrival, he refused his housing assignment and was charged with *.254 "refusing the work or to accept program or housing assignment." Frazier entered a plea of not guilty and was assigned a substitute counsel. During the disciplinary hearing, he presented no witnesses and declined to confront or cross-examine adverse witnesses. He asserted that inmates were contacted to say things about him at NSP, he was advised to file a lawsuit, the transfer was retaliatory, and SWSP had to contact

¹ Effective May 17, 2021, prohibited act *.254 was recategorized from a Category C offense to a Category B offense. Under both categories, infractions "preceded by an asterisk (*) are considered the most serious and result in the most severe sanctions." N.J.A.C. 10A:4-4.1(a).

Indiana.² The substitute counsel relied on Frazier's statement. The hearing officer determined Frazier was guilty and he was sanctioned.

Frazier appealed the disciplinary decision. He asserted a violation of the ICC between Indiana and New Jersey, requested that the Indiana commissioner be contacted, that he had filed a federal lawsuit, and "refused to be housed in the State of New Jersey until Indiana [was] notif[ied] of [the] problems and [he was] transferred to a different state." The associate administrator upheld the hearing officer's decision, finding that the "DOC [was] in compliance with procedural safeguards, [the] plea of leniency [was] considered and [would not be granted], and the extenuating circumstances [d]id not outweigh the substantial evidence."

B.

On September 17, 2021, Frazier was incarcerated at SWSP. He was advised that he was being transferred to NSP and he stated "that he would not comply and [would refuse the] transfer." He was charged with *.254 "refusing the work or to accept program or housing assignment." Frazier entered a plea

² We glean from the record that Frazier was sentenced in Indiana but is serving his sentence in New Jersey under the Interstate Corrections Compact (ICC), N.J.S.A. 30:7C-1 to -12.

of not guilty and was assigned a substitute counsel. He did not make a statement, presented no witnesses, and declined to confront or cross-examine adverse witnesses. Frazier requested leniency. The hearing officer determined he was guilty and imposed sanctions.

Frazier appealed the disciplinary decision. He asserted a violation of standards and the ICC. He argued that he "was never informed he was [going] back to SWSP" and he "should have stayed at NSP." The assistant superintendent upheld the hearing officer's decision, finding that the "DOC [was] in compliance with procedural safeguards, the sanction [was] appropriate to the charge and no leniency [would] be afforded."

II.

Frazier challenges both final agency decisions. He raises the following arguments for our consideration:

ARGUMENT I.

COURTLINE AT [SWSP] NEVER PRESENTED
ANY EVIDENCE WHY [FRAZIER WAS] DENIED A
BED MOVE AT [SWSP TO NSP].

ARGUMENT II.

COURTLINE NEVER CHECK[ED] TO SEE IF THE C.I.^[4] INFORMATION WAS RELIABLE IN [ITS] GUILTY FINDING OF [FRAZIER].

ARGUMENT III.

[FRAZIER] WAS NOT AFFORDED A[N] IMPARTIAL DECISION MAKER. COURTLINE HAD [ITS] MIND MADE UP [THAT FRAZIER] WAS GUILTY AND DESIGNEE FAIL[ED] TO [CORRECT] DUE PROCESS VIOLATION.

ARGUMENT IV.

[FRAZIER WAS] DENIED [HIS RIGHT] TO LITIGATE THIS APPEAL. [NSP] IN CONCERT WITH [SWSP] . . . CONFISCATE[D] LEGAL DOCUMENTS [OUT OF] THE ENVELOPE SEPT[EMBER] 30, 2021 TO [THE] PRESENT AND CONFISCATE[D] THREE] LEGAL BOOKS WITHOUT DUE PROCESS OF LAW.

ARGUMENT V.

[FRAZIER'S] PHONE WAS SHUT OFF ILLEGALLY BEFORE HE WAS SANCTION[ED] AND POST HIS SANCTION [FROM AUGUST 4, 2021 TO DECEMBER 8, 2021 WITHOUT DUE PROCESS OF LAW].

⁴ We understand Frazier's reference to C.I. to be "confidential informant" or "confidential inmate."

ARGUMENT VI.

[SWSP AND NSP] C.I.s - INMATES ON BEHALF OF
PRIVATE PRISON GROUP GEO CORP NEW
CASTLE CORRECTIONAL FACILITY TO DEFAME
[FRAZIER'S] NAME AS A MUSLIM.

III.

Our review of a final administrative decision is limited. Malacow v. N.J. Dep't of Corr., 457 N.J. Super. 87, 93 (App. Div. 2018). "We will disturb an agency's adjudicatory decision only upon a finding that the decision is 'arbitrary, capricious or unreasonable,' or is unsupported 'by substantial credible evidence in the record as a whole.'" Blanchard v. N.J. Dep't of Corr., 461 N.J. Super. 231, 237-238 (App. Div. 2019) (quoting Henry v. Rahway State Prison, 81 N.J. 571, 579-80 (1980)). "Substantial evidence has been defined alternatively as 'such evidence as a reasonable mind might accept as adequate to support a conclusion,' and 'evidence furnishing a reasonable basis for the agency's action.'" Id. at 238 (quoting Figueroa v. N.J. Dep't of Corr., 414 N.J. Super. 186, 192 (App. Div. 2010)).

Prison disciplinary hearings are not part of a criminal prosecution, and the full spectrum of rights due to a criminal defendant does not apply. Avant v. Clifford, 67 N.J. 496, 522 (1975). However, when reviewing a determination of the DOC in a matter involving prisoner discipline, we consider not only whether

there is substantial credible evidence that the inmate committed the prohibited act, but also whether, in making its decision, the DOC followed regulations adopted to afford inmates procedural due process. See McDonald v. Pinchak, 139 N.J. 188, 194-96 (1995).

In essence, Frazier argues: (1) the DOC failed to present evidence as to why he was denied the bed move; (2) the DOC failed to determine if the confidential information was reliable in determining his guilt; and (3) the hearing lacked an impartial decisionmaker. Having considered these contentions in view of the record and applicable legal principles, we conclude they lack sufficient merit to discuss in a written opinion. R. 2:11-3(e)(1)(E). Pursuant to our limited standard of review, Russo v. Bd. of Trs., Police & Firemen's Ret. Sys., 206 N.J. Super. 14, 27 (2011), we conclude that the DOC's decisions of September 17 and 23, 2021, are "supported by sufficient credible evidence" as a whole. See Rule 2:11-3(e)(1)(D). Indeed, Frazier does not dispute that he refused his housing assignment at SWSP or his transfer to NSP.

Frazier's remaining arguments were not presented to the DOC, despite his opportunity to do so. See Selective Ins. Co. of Am. v. Rothman, 208 N.J. 580, 586 (2012) (Reiterating the principle that appellate courts ordinarily will not address an argument, raised for the first time on appeal, despite an adequate

opportunity to investigate and raise the issue in a trial court.). We therefore decline to consider them.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION