

**NOT FOR PUBLICATION WITHOUT THE
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-2102-20**

PAUL WILLIAMS,

Appellant,

v.

**NEW JERSEY DEPARTMENT
OF CORRECTIONS,**

Respondent.

Submitted December 14, 2022 – Decided January 5, 2023

Before Judges Firko and Natali.

On appeal from the New Jersey Department of Corrections.

Paul Williams, appellant pro se.

Matthew J. Platkin, Attorney General, attorney for respondent (Donna Arons, Assistant Attorney General, of counsel; William C. Booth, Deputy Attorney General, on the brief).

PER CURIAM

Appellant inmate Paul Williams appeals from the adjudication of a disciplinary charge against him for committing an unprovoked assault on another inmate, *.002, as set forth in N.J.A.C. 10A:4-4.1(a).

Appellant is serving a life sentence for first-degree murder. He is housed in the mental health unit at a State prison. On October 23, 2020, an officer observed appellant attack another inmate with closed fists before running back to his cell. Five days later, the *.002 charge was served on appellant. The Department of Corrections (DOC) had appellant undergo a mental health evaluation to ascertain his mental status, level of responsibility at the time of the assault, and competency to participate in a hearing. The evaluating psychologist opined appellant "was likely responsible for his actions at the time of the alleged infraction," and he was competent to defend himself. The charge was referred to a hearing officer for further action.

Appellant was provided with a counsel substitute. He pled guilty to the charge and chose not to confront adverse witnesses or to call witnesses on his behalf. The hearing officer found appellant guilty of the charge. He was sanctioned to 210 days in the Restorative Housing Unit, 210 days' loss of

commutation time, fifteen days' loss of Jpay¹ privileges, and a mental health referral was made. The hearing officer granted appellant leniency but stated that "this type of behavior will not be tolerated."

Appellant filed an administrative appeal from that decision. In his appeal, appellant argued he was not served with the disciplinary charge within forty-eight hours of the violation as required by N.J.A.C. 10A:4-9.2. The Assistant Superintendent upheld the hearing officer's decision. Appellant appeals from that final decision and raises the following issue on appeal:

APPELLANT'S RIGHTS TO DUE PROCESS AND A
FAIR DISCIPLINARY HEARING WERE
VIOLATED BASED UPON A VIOLATION OF
N.J.A.C. 10A:4-9.2.

Applying our limited standard of review, In re Herrmann, 192 N.J. 19, 27-28 (2007), we find no basis to overturn the DOC's decision in this matter. N.J.A.C. 10A:4-9.2 provides: "The disciplinary report shall be served upon the inmate within [forty-eight] hours after the violation unless there are exceptional circumstances. . . . The inmate shall have [twenty-four] hours to prepare [their] defense." However, N.J.A.C. 10A:4-9.9(a) explicitly states, "[t]he failure to

¹ JPay is a private company that has partnered with state, county, and federal correctional facilities. It offers a service that provides inmates the ability to send and retrieve e-messages through the use of personal tablets, or kiosks, that are typically placed in general population housing units.

adhere to any of the time limits prescribed by this subchapter shall not mandate the dismissal of a disciplinary charge." The disciplinary hearing officer has the discretion to dismiss a disciplinary charge because of a violation of time limits upon consideration of: (1) the length of the delay; (2) the reason for the delay; (3) prejudice to the inmate in preparing their defense; and (4) the seriousness of the alleged infraction. Ibid.

An incarcerated inmate is not entitled to the full panoply of rights in a disciplinary proceeding as is a defendant in a criminal prosecution. Avant v. Clifford, 67 N.J. 496, 522 (1975). An inmate is entitled to written notice of the charges at least twenty-four hours prior to the hearing; an impartial tribunal; a limited right to call witnesses and present documentary evidence; a limited right to confront and cross-examine adverse witnesses; a right to a written statement of the evidence relied upon and the reasons for the sanctions imposed; and where the charges are complex, the inmate is permitted the assistance of a counsel substitute. Id. at 525-33.

At the hearing, appellant made a statement on his own behalf that he attacked the other inmate because he "said something bad to" appellant, and he was "out of [his] head." Counsel substitute signed the hearing officer's adjudication report, indicating it accurately reflected what occurred at the

hearing. Notably, the report cites no procedural deficiencies. Moreover, appellant does not identify any prejudice that resulted from the delay in service of the charges. See Jacobs v. Stephens, 139 N.J. 212, 219-20 (1995) (noting "a court should be 'reluctant to overtax and/or hamstring prison officials' execution of disciplinary policies and procedures by mandating an automatic remand for technical non-compliance with a regulation, absent some showing of prejudice to the inmate"). Here, appellant was notified of the charge against him more than twenty-four hours before the hearing.

We perceive no constitutional infringements in this procedure. We conclude there was substantial evidence in the record to support the agency's decision based on the reports and evidence submitted at the hearing. The DOC's decision was not arbitrary, capricious, or unreasonable.

To the extent not specifically addressed, appellant's remaining arguments lack sufficient merit to warrant discussion in this written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION