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**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-2305-20**

**JOHN PRITCHETT,**

Appellant,

v.

**NEW JERSEY DEPARTMENT  
OF CORRECTIONS,**

Respondent.

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Submitted January 18, 2023 – Decided April 19, 2023

Before Judges Susswein and Berdote Byrne.

On appeal from the New Jersey Department of Corrections.

John Pritchett, appellant pro se.

Matthew J. Platkin, Attorney General, attorney for respondent (Sookie Bae-Park, Assistant Attorney General, of counsel; Christopher C. Josephson, Deputy Attorney General, on the brief).

**PER CURIAM**

Petitioner John Pritchett appeals from a final agency decision by the Department of Corrections (DOC) affirming the imposition of disciplinary sanctions for possession of currency in excess of \$50 without authorization, in violation of N.J.A.C. 10A:4-4.1(a)(2)(xiii) (\*.207).<sup>1</sup> He contends his due process rights were violated when the DOC treated U.S. Postage Stamps found in his cell as "currency" for purposes of the \*.207 violation. After carefully reviewing the record in view of the governing legal principles, we conclude that Pritchett was afforded all due process protections to which he is entitled and the DOC properly exercised its discretion and expertise in treating the confiscated stamps as a form of currency associated with Pritchett's admitted gambling operation.

## I.

On March 10, 2021, while conducting a routine search of Pritchett's cell, a corrections officer discovered and confiscated 1,110 postage stamps and several gambling slips in an envelope. On March 11, 2021, Pritchett was charged with violating N.J.A.C. 10A:4-4.1(a)(3)(xv) (\*.602), "preparing or

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<sup>1</sup> This infraction is designated as an "asterisk offense." "Under the [DOC]'s regulations on inmate discipline, N.J.A.C. 10A:4-4.1, '[a]sterisk offenses' are prohibited acts considered to be the most serious violations, resulting in the most severe sanctions." Hetsberger v. N.J. Dep't of Corr., 395 N.J. Super. 548, 556 (App. Div. 2007).

conducting a gambling pool," and \*.207, "possession of money or currency (in excess of \$50), unless specifically authorized in a secure facility."

During his disciplinary hearing, Pritchett pled guilty to the \*.602 charge<sup>2</sup> and not guilty to the \*.207 charge. He argued that stamps are not recognized as currency under New Jersey law. Pritchett also contended that the postage stamps were "specifically authorized" by the facility as they could be purchased at the commissary and not prohibited items. Thus, he contends that "at best" he failed to comply with a written rule or regulation of the correctional facility, N.J.A.C. 10A:4-4.1(a)(4)(vii) (\*.709),<sup>3</sup> for possessing more than the forty stamps allowed per inmate. The officer who confiscated the stamps stated in the disciplinary report that in his "experience as a correctional police officer [he knew] stamps are used as currency to pay gambling debts." The DOC also introduced the dictionary.com definition of currency.<sup>4</sup> Pritchett declined to call witnesses.

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<sup>2</sup> Pritchett does not challenge his administrative conviction for conducting a gambling pool.

<sup>3</sup> \*.709 offenses are categorized as Category D, N.J.A.C. 10A:4-4.1(a)(4), which are subject to less severe sanctions than Category B offenses, N.J.A.C. 10A:4-4.1(a)(2), such as \*.207, and Category C offenses, N.J.A.C. 10A:4-4.1(a)(3), such as \*.602.

<sup>4</sup> That definition was: "1. something that is used a medium of exchange; money. 2. general acceptance; prevalence; vogue. 3. a time or period during which

On March 16, 2021, the Disciplinary Hearing Officer (DHO) found Pritchett guilty of both charges. The DHO relied on the evidence that "[inmates] are known to use stamps as currency to pay gambling debt." Pritchett received ninety days in the Restricted Housing Unit, sixty days loss of commutation time, and ten days loss of recreational privileges. The DHO returned forty of the 1,110 confiscated stamps to Pritchett—the maximum he was allowed to possess.

On March 17, 2021, Pritchett administratively appealed the disciplinary decision, arguing that regulations do not define the term currency and that stamps do not constitute currency. On March 25, 2021, Assistant Superintendent Amy Emrich upheld the DHO's decision. She concluded "there was compliance with the New Jersey Administrative Code on inmate discipline which prescribes procedural safeguards," and that "[t]he charges were adjudicated accordingly to the code. The preponderance of evidence presented supports the guilt decision of the hearing officer." Pritchett was sent notice of the decision on April 13, 2021.

Pritchett raises the following contention for our consideration:

HEARING OFFICER'S DECISION WAS BOTH  
ARBITRARY AND CAPRICIOUS AND THE  
DECISION WAS NOT BASED ON SUBSTANTIAL

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something is widely accepted and circulated. 4. the fact or quality of being widely circulated from person to person. 5. circulation, as of coin."

CREDIBLE EVIDENCE IN VIOLATION OF  
CLEARLY ESTABLISHED LAW PURSUANT TO  
WOLFF V. MCDONNELL, 418 U.S. 539 (1974) AND  
AVANT V. CLIFFORD, 67 N.J. 496 (1975).

II.

We begin our analysis by acknowledging the legal principles governing this appeal. The scope of our review is narrow. 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." Henry v. Rahway State Prison, 81 N.J. 571, 579–80 (1980) (citing Campbell v. Dep't of Civ. Serv., 39 N.J. 556, 562 (1963)). In determining whether an agency action is arbitrary, capricious, or unreasonable, a reviewing court must examine:

(1) whether the agency's action violates express or implied legislative policies, that is, did the agency follow the law; (2) whether the record contains substantial evidence to support the findings on which the agency based its action; and (3) whether in applying the legislative policies to the facts, the agency clearly erred in reaching a conclusion that could not reasonably have been made on a showing of the relevant factors.

[In re Carter, 191 N.J. 474, 482–83 (2007) (quoting Mazza v. Bd. of Trs., 143 N.J. 22, 25 (1995)).]

In an appeal from a final decision in a prisoner disciplinary matter, we consider whether there is substantial evidence in the record to support the DOC's

decision that the inmate committed the prohibited act. Blanchard v. N.J. Dep't of Corr., 461 N.J. Super. 231, 237–38 (App. Div. 2019) (citing Henry, 81 N.J. at 579–80 (1980)). Substantial evidence has been defined 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 (internal quotations omitted) (quoting Figueroa v. N.J. Dep't of Corr., 414 N.J. Super. 186, 192 (App. Div. 2010)); see also 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.")

The adjudicative determinations of an administrative agency are entitled to deference and "carry with them a presumption of reasonableness." Figueroa, 414 N.J. at 191. "An appellate court may not reverse an agency's determination 'even if [the] court may have reached a different result had it been the initial decision maker." Ibid. (quoting Circus Liquors, Inc. v. Governing Body of Middletown Twp., 199 N.J. 1, 10 (2009)). However, "our review is not 'perfunctory,' nor is 'our function . . . merely to rubberstamp an agency's decision.'" Blanchard, 461 N.J. Super. at 239 (quoting Figueroa, 414 N.J. Super. at 191). Rather, "[w]e are constrained to engage in a 'careful and principled

consideration of the agency record and findings.'" Ibid. (quoting Williams v. N.J. Dep't of Corr., 330 N.J. Super. 197, 204 (App. Div. 2000)).

The deference we owe to an administrative agency becomes even more important "when the issue under review is directed to the agency's special 'expertise and superior knowledge of a particular field.'" In re Stallworth, 208 N.J. 182, 195 (2011) (quoting In re Herrmann, 192 N.J. 19, 28 (2007)). We stress that "[p]risons are dangerous places, and the courts must afford appropriate deference and flexibility to administrators trying to manage this volatile environment." Russo v. N.J. Dep't of Corr., 324 N.J. Super. 576, 584 (App. Div. 1999). We further recognize that prohibited gambling—and the payment and enforcement of illegal gambling debts—can exacerbate the volatile environment of a prison.

In Avant, our Supreme Court extended inmates' due process rights beyond those constitutionally required by the United States Supreme Court in Wolff v. McDonnell, 418 U.S. at 563–70. Avant, 67 N.J. at 525–33. Avant requires that:

An inmate facing disciplinary action must be provided with the following limited protections: (1) written notice of the charges, provided at least twenty-four hours before the hearing, so the inmate can prepare a defense; (2) an impartial tribunal, consisting of either one [hearing officer] or a three-member adjustment committee; (3) the assistance of a counsel substitute if the inmate is illiterate or unable to collect or present

evidence; (4) the right to call witnesses and present documentary evidence, provided it is not "unduly hazardous to institutional safety or correctional goals"; (5) the right to confront and cross-examine adverse witnesses; and (6), quoting the Standards on the Inmate Discipline Program section 254.283, "a written statement of the fact-findings is given to the inmate by the [hearing officer] or by the adjustment committee chairman as to the evidence relied upon, decision and the reason for the disciplinary action taken unless such disclosure would jeopardize institutional security."

[Malacow v. N.J. Dep't of Corr., 457 N.J. Super. 87, 93–94 (App. Div. 2018) (quoting Avant, 67 N.J. at 525–33).]

The Court explained that New Jersey courts "have not been satisfied with enforcement of naked constitutional right [to due process], but have gone further to strike down arbitrary action and administrative abuse and to insure procedural fairness in the administrative process." Avant, 67 N.J. at 520.

### III.

Applying those foundational principles, we conclude Pritchett received the protections guaranteed by the New Jersey Supreme Court. We next address his argument that his administrative conviction was not supported by substantial evidence. It is well-settled an appellate court "may not substitute its own judgment for the agency's, even though the court might have reached a different result." Carter, 191 N.J. at 483 (quoting Greenwood v. State Police Training




Ctrl., 127 N.J. 500, 513 (1992)). We have no reason to second guess the DOC conclusion that U.S. Postage Stamps can serve as a form of currency for purposes of a \*.207 violation. Indeed, that conclusion is amply supported by the record in this case. Pritchett was in possession of 1,110 stamps, which grossly exceeds the forty stamps allowed per inmate. At fifty-five cents each, Pritchett possessed \$610.50 worth of stamps. The officer who confiscated the stamps stated in the disciplinary report that inmates are known to use postage stamps as a form of currency when gambling. Furthermore, the gambling slips that were confiscated from Pritchett's cell support the conclusion the seized stamps were used to pay off gambling debts. As we have noted, Pritchett does not deny he operated a gambling pool.

In sum, the imposition of sanctions is amply supported by substantial evidence presented at the disciplinary hearing, and the finding of guilt on the \*.207 charge was neither arbitrary, capricious, or unreasonable.

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION