

**NOT FOR PUBLICATION WITHOUT THE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-3488-20**

VINCENT LAING,

Petitioner-Appellant,

v.

NEW JERSEY DEPARTMENT
OF CORRECTIONS,

Respondent-Respondent.

Submitted December 13, 2022 – Decided February 23, 2023

Before Judges Geiger and Susswein.

On appeal from the New Jersey Department of
Corrections.

Vincent Laing, appellant pro se.

Mathew J. Platkin, Attorney General, attorney for
respondent (Stephanie M. Mersch, Deputy Attorney
General, on the brief).

PER CURIAM

State prison inmate Vincent Laing appeals from a Department of Corrections (the Department) final agency decision denying him public health emergency credits pursuant to N.J.S.A. 30:4-123.100 to -123.103. Laing was sentenced under the No Early Release Act, N.J.S.A. 2C:43-7.2, which requires that he serve eighty-five percent of his eleven-year prison term before becoming eligible for parole. His parole release date is March 20, 2023. He was incarcerated when the Governor issued Executive Order (EO) 103 at the outset of the COVID-19 pandemic, declaring a public health emergency. Exec. Order No. 103 (Mar. 9, 2020), 52 N.J.R. 549(a) (Apr. 6, 2020). On February 11, 2022, the Governor issued EO 288, which extended the public health emergency for the last time and expired on March 13, 2022. Exec. Order No. 288 (Feb. 11, 2022), 54 N.J.R. 395(c) (Mar. 7, 2022).

The issue before us is whether Laing is statutorily ineligible for public health emergency credits because he was not within a year of his scheduled release date when the public health emergency ended. After reviewing the statutory framework de novo, we agree with the Department's interpretation and conclude Laing was not eligible for those credits.

Laing raises the following contention for our consideration:

THE INSTITUTIONAL CLASSIFICATION
COMMITTEE IMPROPERLY DETERMINED THAT

THE APPELLANT CANNOT RECEIVE THE
PUBLIC HEALTH EMERGENCY CREDITS
PURSUANT TO N.J.S.A. 30:4-123.100.

Legal questions of statutory interpretation are reviewed de novo. Bowser v. Bd. of Trs., Police & Firemen's Ret. Sys., 455 N.J. Super. 165, 170–71 (App. Div. 2018). "We may give 'substantial deference to an agency's interpretation of a statute that the agency is charged with enforcing,' particularly when its interpretation involves a permissible construction of an ambiguous provision" Id. at 171 (quoting Richardson v. Bd. of Trs., Police & Firemen's Ret. Sys., 192 N.J. 189, 196 (2007)). "However, we are 'in no way bound by the agency's interpretation of a statute or its determination of a strictly legal issue.'" Ibid. (quoting Mayflower Sec. Co. v. Bureau of Sec., 64 N.J. 85, 93 (1973)).

"When a court construes a statute, its 'paramount goal' is to discern the Legislature's intent." In re Ridgefield Park Bd. of Educ., 244 N.J. 1, 18 (2020) (quoting DiProspero v. Penn., 183 N.J. 477, 492 (2005)). Appellate courts "look first to the statute's actual language and ascribe to its words their ordinary meaning." Ibid. (quoting Kean Fed'n of Tchrs. v. Morell, 233 N.J. 566, 583 (2018)). "[T]he best indicator of [the Legislature's] intent is the statutory language, thus it is the first place we look." Ibid. (alterations in original) (internal quotation marks omitted) (quoting Richardson, 192 N.J. at 195). "If

the plain language leads to a clear and unambiguous result, then our interpretive process is over." Ibid. (quoting Richardson, 192 N.J. at 195).

"Nonetheless, 'not every statute is a model of clarity.'" Ibid. (quoting Wilson ex rel. Manzano v. City of Jersey City, 209 N.J. 558, 572 (2012)).

"Where the statutory language is ambiguous, we may consider extrinsic materials such as legislative history, committee reports, and other relevant sources." Id. at 18–19 (quoting Kean, 233 N.J. at 583). "Where available, [t]he official legislative history and legislative statements serve as valuable interpretive aid[s] in determining the Legislature's intent." Id. at 19 (alterations in original) (internal quotation marks omitted) (quoting State v. Drury, 190 N.J. 197, 209 (2007)).

We begin our analysis by examining the pertinent text from the statute. N.J.S.A. 30:4-123.100(a) provides that whenever the Governor declares a public health emergency pursuant to the Emergency Health Powers Act, N.J.S.A. 26:13-1 to -36, the Commissioner of Corrections "shall award inmates public health emergency credits in accordance with this section if the public health emergency: (1) arises as a result of a communicable or infectious disease; and (2) results in substantial modifications to department-wide correctional facility operations." Subsection (b) provides that "public health emergency credits shall

be awarded to any inmate in the custody of the Commissioner of Corrections who: (1) is serving a sentence . . . and (2) is scheduled to be released from the custody of the Commissioner of Corrections within 365 days." N.J.S.A. 30:4-123.100(b) (emphasis added).

Subsection (f) provides, "[a]n inmate who was in the custody of the Commissioner of Corrections during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic shall receive public health emergency credits in accordance with this section." N.J.S.A. 30:4-123.100(f).

Laing argues that under subsection (f), any inmate who was incarcerated during the public health emergency and state of emergency is automatically entitled to receive credits without regard to the eligibility criteria set forth in other subsections of N.J.S.A. 30:4-123.100. We disagree. Subsection (f) cannot be read in isolation from the other provisions in N.J.S.A. 30:4-123.100, especially since it expressly provides that the credits shall be received "in accordance with this section." We interpret the plain text to require subsection (f) to be read to be in pari materia with the other subsections of N.J.S.A. 30:4-123.100, not to supersede them or render them superfluous. See Jones v. Morey's Pier, Inc., 230 N.J. 142, 164 (2017) ("When . . . we construe multiple

statutes, we follow the principle that '[s]tatutes that deal with the same matter or subject should be read in pari materia and construed together as a unitary and harmonious whole.'" (alteration in original) (quoting St. Peter's Univ. Hosp. v. Lacy, 185 N.J. 1, 14–15 (2005))). Accordingly, the eligibility requirements specified in subsection (b)—that the inmate be within 365 days of scheduled release—apply to subsection (f).

The Legislature certainly knows how create an exception in a statute, for example, by specifying that a subsection applies "notwithstanding any other provision of this section." Here, to the contrary, the Legislature expressly provided that the award of credits under subsection (f) must be "in accordance with this section," thereby referring to and incorporating the subsections of N.J.S.A. 30:4-123.100.

Even were we to assume for the sake of argument there is any ambiguity in how to interpret subsections (b) and (f), the legislative history confirms the Legislature's intent that only inmates within a year of release be entitled to public health emergency credits. The statement from the Assembly Budget Committee, for example, explains that:

The provisions of this amended bill would expedite the release of certain inmates and juveniles who are approaching the end of their sentences to reduce the risk

of harm to inmates, juveniles, and facility staff, while protecting the public safety.

The amended bill provides for public health emergency credits to be awarded to an inmate in the custody of the Department of Corrections (DOC) or a juvenile in the custody of the Juvenile Justice Commission (JJC) who is scheduled to be released from custody within one year.

[A. Budget Comm. Statement to S. 2519 1 (Sept. 22, 2020) (emphasis added).]

That same language is also found in the statement from the Senate Law and Public Safety Committee. S. L. & Pub. Safety Comm. Statement to S. 2519 1 (Aug. 21, 2020). So, too, the Senate Commerce Committee commented: "In providing a method to award these credits, it is the sponsor's intent to expedite the release of certain inmates who are approaching the end of their sentences in order to reduce the risk of harm to inmates and correctional facility staff, while simultaneously protecting the public safety." S. Com. Comm. Statement to S. 2519 1 (July 23, 2020) (emphasis added).

In view of both the plain text and legislative history of the statute, we conclude the Department's decision to deny public health emergency credits to Laing was correct. Inmates are only eligible to receive public health emergency credits if a public health emergency exists when the inmate is within 365 days of his release date. The COVID-19 public health emergency ended on March

13, 2022, when EO 288 expired. As Laing's release date is March 20, 2023, he was not within 365 days of his release during a public health emergency, and thus ineligible to receive credits.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION