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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-1757-14T2  
A-3475-14T2

J.A.,

Plaintiff-Appellant,

v.

SARAH DAVIS,

Defendant-Respondent.

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Submitted February 7, 2017 – Decided February 24, 2017

Before Judges Fasciale and Gilson.

On appeal from Superior Court of New Jersey,  
Law Division, Middlesex County, Docket Nos.  
SC-0173-14 and SC-0724-14.

J.A., appellant pro se.

Christopher S. Porrino, Attorney General,  
attorney for respondent (Lisa A. Puglisi,  
Assistant Attorney General, of counsel;  
Matthew J. Lynch, Deputy Attorney General, on  
the brief).

PER CURIAM

In these back-to-back appeals, which we have consolidated for the purpose of rendering this opinion, plaintiff J.A. appeals from orders dismissing two Special Civil Part complaints he filed

against the Assistant Administrator of the Department of Corrections (DOC), Sarah Davis (defendant). We affirm without prejudice and permit J.A. to file an appeal from the related final decisions by the DOC.

J.A. is civilly committed to the Special Treatment Unit (STU) of the Department of Corrections in Avenel, New Jersey. These consolidated cases arise from separate alleged incidents while J.A. was a resident in the STU. The first case involves J.A.'s allegations that his property in the STU had been lost or damaged. The second case involves J.A.'s allegations that another resident had failed to serve the proper amount of food to all STU residents. The DOC rejected J.A.'s contentions. In both matters, J.A. did not appeal from the final DOC decisions. Instead, he filed these complaints in the Special Civil Part.

In dismissing the cases, the court stated that the "Appellate Division has exclusive jurisdiction to review any action or inaction of a state administrative agency" pursuant to Pascucci v. Vagott, 71 N.J. 40 (1976). The judge cited Ortiz v. New Jersey Department of Corrections, 406 N.J. Super. 63 (App. Div. 2009), and stated the case "requires that inmates of the [DOC] must first exhaust their administrative appeals before proceeding to

court[.]"<sup>1</sup> The judge refused to "forward" the case to the Appellate Division, finding that J.A. had cited no rule to do so and stating that J.A. was free to appeal the court's decision.

On appeal, J.A. argues (1) the court "failed/refused to comply with the [Americans with Disabilities Act (ADA)], etc." by not appointing him a legal guardian; (2) defendant is not entitled to be represented by the Attorney General "because of the crimes committed;" (3) the court erred by dismissing the claim rather than transferring it to the appropriate court per Rule 1:13-4(a); (4) we should make a ruling on the merits; and (5) that he exhausted his remedies at the agency level.

We conclude that J.A.'s arguments are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We add the following brief remarks as to J.A.'s contention that the court failed to transfer the cases to the appellate division.

Rule 1:13-4(a) states:

[I]f any court is without jurisdiction of the subject matter of an action or issue therein . . . it shall, on motion or on its own initiative, order the action, with the record and all papers on file, transferred to the

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<sup>1</sup> The judge also rejected J.A.'s claim that the Attorney General may not represent defendant due to a conflict of interest, stating the claim "is utterly without merit because N.J.S.A. 52:17A-4(e) requires the Attorney General to represent State official[s] in court proceedings."

proper court, or administrative agency, if any, in the State. The action shall then be proceeded upon as if it had been originally commenced in that court or agency.

Here, the court was correct that it lacked jurisdiction, but it could have transferred the cases to this court rather than dismiss the complaints. See Pascucci, supra, 71 N.J. at 52 (stating "the Supreme Court, in pursuance of its constitutional responsibility, has vested review of state administrative actions exclusively in the Appellate Division"); R. 2:2-3(a)(2) (stating appeals may be taken to "the Appellate Division as of right . . . to review final decisions or actions of any state administrative agency or officer"). Nevertheless, we affirm the orders dismissing J.A.'s complaints without prejudice, and permit J.A. to file appeals from the related final decisions by the DOC. This way, the parties may fully brief the legal issues related to the final agency decisions so long as he files his appeal within forty-five days from the date of this opinion.

Affirmed without prejudice.

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

  
CLERK OF THE APPELLATE DIVISION