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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-3103-14T3

ABDUS SAMAD HAMILTON,

Appellant,

v.

NEW JERSEY DEPARTMENT  
OF CORRECTIONS,

Respondent.

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Submitted February 16, 2017 – Decided March 1, 2017

Before Judges Hoffman and O'Connor.

On appeal from the New Jersey Department of  
Corrections.

Abdus Samad Hamilton, appellant pro se.

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

PER CURIAM

Petitioner Abdus Samad Hamilton, an inmate at New Jersey  
State Prison, appeals from a Department of Corrections final

administrative decision affirming a disciplinary hearing officer's finding he committed prohibited acts \*.803/\*.751, attempting to give or offer any official or staff member a bribe of anything of value, and \*.803/\*.306, attempting conduct which disrupts or interferes with the security or orderly running of the correctional facility. See N.J.A.C. 10A:4-4.1. After consideration of the arguments raised in light of the record and applicable legal standards, we reverse.

I

In March 2014, the Special Investigation Division (SID) investigated a suspected conspiracy among prison inmates, corrections officers, and inmates' family members to smuggle contraband into the prison. When the investigation concluded in October 2014, petitioner was charged with prohibited acts \*.803/\*.751 and \*.803/\*.306, as well as \*.704, perpetrating a fraud. He was immediately placed in pre-hearing detention.

The hearing was adjourned a number of times to provide the hearing officer an opportunity to review extensive evidence amassed by the SID. Further, as a result of the investigation, a number of inmates were charged with prohibited acts, creating an "excessive" caseload for the hearing officer, delaying the scheduling of petitioner's hearing. The hearing was ultimately conducted on November 12, 2014; at the conclusion of the

hearing, petitioner was found guilty of prohibited acts  
\*.803/\*.751 and \*.803/\*.306.

The hearing officer stated petitioner was guilty of  
\*.803/\*.751 because a civilian told an investigator that  
petitioner arranged for a friend or family member to give money  
to a corrections officer, "which was determined to have been  
used in part to pay (bribe) said corrupt staff." The hearing  
officer noted she relied upon "confidential material" to support  
her finding of guilt. The confidential materials to which she  
referred are in the record.

The confidential materials comprise of three documents.  
The first is merely a list of the dates and page lengths of  
eight reports. The second is an undated letter from petitioner  
to another inmate and states, in pertinent part:

I'm hearing the well is dry over there on  
the smokes. I have a little something that  
I have going on right now but the price  
isn't great right now. Packs are going for  
\$70.00 but I think I can give them up for  
\$60.00. . . . I just wanted to let you know  
and put the word out to you that I'm back in  
business. . . . Let Muizz know what's up  
and I'll have it to you ASAP.

The third document, entitled "DHO Note," is the hearing  
officer's summary of what six unidentified civilians reported to  
a SID investigator. According to her summary, the first  
civilian reported receiving money from a corrections officer at

the request of one of the inmates. The second civilian received money from "friends/family" of "involved [inmates]" to give to an inmate. The third civilian purchased and gave cellular phones to a corrections officer to smuggle into the prison, and also received money from an inmate's family or friend and arranged to have contraband mailed to the civilian's home. The fourth civilian mailed tobacco to an inmate's family at such inmate's request. According to this civilian, the tobacco was intended to be smuggled into the prison by a corrections officer.

The fifth civilian, "who had direct involvement in this incident," admitted receiving and transferring money "to another person," and advised the investigator some of the money was to be used to bribe a corrections officer and staff member. This civilian also used other civilians to receive money orders and cash from "involved [inmates'] family/friends" to circumvent detention by the prison. Finally, the sixth civilian, "also directly involved in this incident," admitted to meeting with the friends and family of "some of the involved [inmates] to receive money, tobacco and cellular phones, and smuggled in other contraband for an inmate."

The hearing officer noted she found petitioner guilty of the second prohibited act, \*.803/\*.306, because evidence

provided by the SID showed petitioner "conspired to disrupt the orderly running/security of the facility by having contraband smuggled into [the prison], which [inmate] was then selling to other [inmates]." To come to this conclusion, the hearing officer relied upon three confidential documents, two of which the hearing officer had relied upon to find petitioner guilty of the first prohibited act. Specifically, these two documents were the list of dates and page lengths of the eight reports, and the letter from petitioner to the other inmate advising he could sell him cigarettes. The third document was a copy of a money order for \$200 made payable to one individual from another individual.

For committing prohibited act \*.803/\*.751, petitioner was sanctioned to fifteen days of detention, the loss of 365 days of commutation time, and 365 days of administrative segregation. Petitioner received the same sanction for committing prohibited act \*.803/\*.306; in addition, he was prohibited from watching television, listening to a radio, and using a telephone for 300 days.

## II

On appeal, petitioner contends the hearing officer erred because (1) there was insufficient evidence to support her findings he committed the subject offenses; and (2) she failed

to properly summarize the confidential materials upon which she relied in accordance with N.J.A.C. 10A:4-9.15(b)(1)(i). In addition, petitioner maintains his due process rights were violated because (1) the only evidence he received before the hearing was a photocopy of a list of visitors to the prison and photocopies of various money transactions; (2) the hearing was not conducted within three days of his placement into prehearing detention, see N.J.A.C. 10A:4-9.8(c); and (3) petitioner was not charged with the prohibited acts within forty-eight hours of allegedly committing these offenses.

Our role in reviewing the decision of an administrative agency is limited. Circus Liquors, Inc. v. Governing Body of Middletown Twp., 199 N.J. 1, 9 (2009). We will not disturb the determination of an administrative agency absent a showing it was arbitrary, capricious, or unreasonable. Ibid. "A finding of guilt at a disciplinary hearing shall be based upon substantial evidence that the inmate has committed a prohibited act." N.J.A.C. 10A:4-9.15(a).

Substantial evidence is "such evidence as a reasonable mind might accept as adequate to support a conclusion." In re Pub. Serv. Elec. & Gas Co., 35 N.J. 358, 376 (1961) (quoting Application of Hackensack Water Co., 41 N.J. Super. 408, 418 (App. Div. 1956)). However, "a mere cataloging of evidence

followed by an ultimate conclusion of liability, without a reasoned explanation based on specific findings of basic facts, does not satisfy the requirements of the adjudicatory process because it does not enable [an appellate court] to properly perform [its] review function." Lister v. J.B. Eurell Co., 234 N.J. Super. 64, 73 (App. Div. 1989). "The DOC is not immune from these requirements, although in prison disciplinary matters we have not traditionally required elaborate written decisions." Blackwell v. Dep't of Corr., 348 N.J. Super. 117, 123 (App. Div. 2002).

Based on our review of the documents upon which the hearing officer relied to find petitioner committed the subject offenses, we conclude there is no substantial evidence petitioner was guilty of either prohibited act. As for prohibited act \*.803/\*.751, the documents provide no basis to find petitioner attempted to give or offered anything of value to a corrections officer or staff member. There is evidence petitioner sent a letter to another inmate advising he had packs of cigarettes to sell, but the letter does not contain any evidence upon which to find or infer petitioner attempted to bribe a corrections officer or staff member.

The summary of what the civilians reported to the SID investigator does not sufficiently link petitioner to any

attempted acts of bribery, either. Certainly there is reference to the civilians, a corrections officer, and certain inmates being involved in some sort of scheme, but petitioner's connection to this scheme is not established.

Adjudication of the \*.803/\*.306 charge suffers from a similar infirmity. The hearing officer found petitioner "conspired to disrupt the orderly running/security of the facility by having contraband smuggled into [the prison], which [inmate] was then selling to other [inmates]." The documents the hearing officer relied upon to arrive at this conclusion do not support this finding. The documents show petitioner advised another inmate he could sell cigarettes at a particular price, but they do not go as far as establishing petitioner also conspired to smuggle cigarettes into the prison.

Accordingly, we reverse the decision petitioner committed prohibited acts \*.803/\*.751 and \*.803/\*.306. In light of our disposition, we need not address petitioner's remaining contentions.

Reversed.

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

  
CLERK OF THE APPELLATE DIVISION