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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-4910-15T2

DEMETRIUS MINOR,

Defendant-Appellant,

v.

NEW JERSEY DEPARTMENT OF  
CORRECTIONS,

Plaintiff-Respondent.

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Submitted December 20, 2017 - Decided January 26, 2018

Before Judges Koblitz and Manahan.

On appeal from the New Jersey Department of  
Corrections.

Demetrius Minor, appellant pro se.

Christopher S. Porrino, Attorney General,  
attorney for respondent (Melissa Dutton  
Schaffer, Assistant Attorney General, of  
counsel; Kevin J. Dronson, Deputy Attorney  
General, on the brief).

PER CURIAM

Prison inmate Demetrius Minor is serving thirty years in  
prison with a mandatory minimum of more than twenty-five years for

manslaughter and carjacking. He appeals from a March 24, 2016 disciplinary action taken against him by the New Jersey Department of Corrections (DOC) after a hearing at which he was found guilty of prohibited act \*.803/\*.215, attempting to possess with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia, N.J.A.C. 10A:4-4.1. He was given a sanction of 365 days loss of commutation time, 180 days administrative segregation, 15 days loss of recreation privileges, permanent loss of contact visits, and 365 days urine monitoring. Finding no merit to Minor's numerous appellate arguments, we affirm.

On the morning of March 2, 2016, a corrections officer was packing up Minor's belongings when a note fell out of a jacket pocket. The note was taped shut inside another piece of paper. Exactly as set forth in the hearing officer's report of adjudication, the note stated:

the bags are \$15. You can sell the bags for 20 or 25 or 30. I just want 750 . . . and no, their not street bags but their a good size . . . and you asked about the payment. It has to be street to street. I have an address for you . . . Oh do you know people that will buy weed. Tell heed that will be coming soon. I'm not selling sticks though, but I'll holla.

After three adjournments for administrative reasons, the hearing was concluded on March 10, 2016. Minor received a counsel

substitute, pled not guilty and stated that he was "set up" by an inmate who assisted the officers in packing up Minor's belongings.

The hearing officer found:

[T]he language used in this note specifically references the cost of "bags," which is something that prohibited substances are sold in. Further, "street to street" is a term used within the correctional facility setting which implies the type of transaction that needs to be made in an attempt to circumvent the proper procedure in regards to receiving money. Lastly, the note explicitly addresses the purchasing of "weed" (marijuana).

The hearing officer noted that "it is irrelevant if [the inmate] authored this note . . . this inmate was in possession of this note which aided a person or people in obtaining [controlled dangerous substances] to be sold within the secure perimeter of the institution."

Minor argues that the evidence did not support the finding because the note was not found when he originally left the cell on February 26, 2016, his possessions were accessible to other inmates, and the note was found only after he wrote seven complaints against prison officials.

The scope of our review of an agency decision is limited. In re Taylor, 158 N.J. 644, 656 (1999). "An appellate court ordinarily will reverse the decision of an administrative agency only when the agency's decision is 'arbitrary, capricious or unreasonable or [] is not supported by substantial credible

evidence in the record as a whole.'" Ramirez v. Dep't of Corr., 382 N.J. Super. 18, 23 (App. Div. 2005) (alteration in original) (quoting Henry v. Rahway State Prison, 81 N.J. 571, 579-80 (1980)). "'Substantial evidence' means 'such evidence as a reasonable mind might accept as adequate to support a conclusion.'" Figueroa v. Dep't of Corr., 414 N.J. Super. 186, 192 (App. Div. 2010) (quoting In re Pub. Serv. Elec. & Gas Co., 35 N.J. 358, 376 (1961)). The note found in the pocket of Minor's shirt constitutes substantial evidence.

When reviewing a determination of the DOC in a matter involving prisoner discipline, we consider not only whether there is substantial evidence that the inmate committed the prohibited act, but also whether, in making its decision, the DOC followed regulations adopted to afford inmates procedural due process. See McDonald v. Pinchak, 139 N.J. 188, 194-96 (1995). Prison disciplinary hearings are not part of a criminal prosecution, and the full spectrum of rights due to a criminal defendant does not apply. Avant v. Clifford, 67 N.J. 496, 522 (1975).

Minor complains on appeal that he asked for a polygraph examination that was not afforded to him. We have held that "an inmate's right to a polygraph is conditional and that the request should be granted when there is a serious question of credibility and the denial of the examination would compromise the fundamental

fairness of the disciplinary process." Ramirez, 382 N.J. Super. at 20. We made clear that an inmate's request for a polygraph under N.J.A.C. 10A:3-7.1 is "not required on every occasion that an inmate denies a disciplinary charge against him." Id. at 23-24.

Minor also complains that his hearing and subsequent administrative review were both delayed by several days. The six-day delay prior to his hearing was necessitated by unusual administrative requirements. See N.J.A.C. 10A:4-9.8(c). After his administrative appeal was decided, the decision was communicated to Minor a week later. This delay is unexplained, but does not impact Minor's due process rights.

Minor claims, without substantiation, that the hearing officer was biased against him and never believes inmates, and that the sanctions imposed were overly severe. Minor was convicted of an asterisk offense. Asterisk offenses "are considered the most serious and result in the most severe sanctions." N.J.A.C. 10A:4-4.1(a). Minor's arguments, those described here and others not fully set forth, are without sufficient merit to require further discussion in a 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