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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-2818-20**

WILLIAM SUAREZ,

Appellant,

v.

**NEW JERSEY DEPARTMENT
OF CORRECTIONS,**

Respondent.

Submitted April 18, 2023 - Decided May 12, 2023

Before Judge Sumners and Chase.

On appeal from the New Jersey Department of Corrections.

William Suarez, appellant pro se

Matthew J. Platkin, Attorney General, attorney for respondent (Melissa H. Raksa, Assistant Attorney General, of counsel; Christopher C. Josephson, Deputy Attorney General, on the brief).

PER CURIAM

William Suarez, who is currently incarcerated in New Jersey State Prison (NJSP) appeals from the Department of Correction's (the Department) April 27, 2021 final agency decision upholding the garnishment of covid stimulus funds he received to pay outstanding court ordered fines and restitution. Because his appeal is without merit, we affirm.

In 2006, Suarez was convicted by a jury of one count of murder and several lesser-included unlawful gun possession crimes and sentenced to twenty-five years in prison. In addition, he was ordered to pay \$9,478.11 in restitution to the Violent Crimes Compensation Board and \$684.00 in fines and penalties.

Suarez, while incarcerated, applied for and received multiple federal stimulus payments under the Coronavirus Aid Relief and Economic Security Act (CARES Act), 116 Pub. L. 136, 134 Stat. 281 (2020), American Rescue Plan Act of 2021 (ARPA), 117 Pub. L. 2 Enacted H.R. 1319, 135 Stat. 4, (2021) and Consolidated Appropriations Act (CAA), 116 Pub. L. 206 Enacted H.R. 133, 134 Stat. 1182 (2020). Through these COVID-19 relief acts, Suarez received the following stimulus payments:

- 1: The CARES Act issued a payment on March 27, 2020 in the amount \$1,200.00

2: The CAA issued a payment on December 27, 2020 in the amount of \$600.00.

3: ARPA issued a payment on March 11, 2021 in the amount of \$1,400.00.

After Suarez received these stimulus payments, the Department garnished all three of his deposits to fulfill his outstanding court-ordered debts.

In March and April of 2021, Suarez submitted two Inmate Grievances claiming that the CARES Act, ARPA, and CAA prohibited the Department from deducting funds from his stimulus payments to satisfy any outstanding debts. The Department twice responded to the inquiries, stating, "[p]lease read N.J.A.C. 10A:2-2.2 and [N.J.S.A.] 2C:46-4."

After Suarez appealed the agency's final decision to this court, the Department reviewed the issues raised by Suarez and agreed that Title II, § 272(d)(A) of the CAA mandated the Department treat CAA payments as exempt from garnishment because under Title II, § 272(d)(A), "no applicable payment shall be subject to execution, levy, attachment, garnishment, or other legal process." The Department then filed a motion to remand Suarez's appeal to refund the petitioner \$83.40 which, pursuant to the exemption, was taken improperly from his CAA payment. We granted the motion. The remaining

issue before the court is whether the Department's garnishment of plaintiff's stimulus payments under the CARES Act and ARPA.

I.

We review agency decisions under an "arbitrary and capricious standard." Zimmerman v. Sussex Cnty. Educ. Servs. Comm'n, 237 N.J. 465, 475 (2019); see also Melnyk v. Bd. of Educ. of the Delsea Reg'l High Sch. Dist., 241 N.J. 31, 40 (2020). "An agency's determination on the merits 'will be sustained unless there is a clear showing that it is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record.'" Saccone v. Bd. of Trs., Police & Firemen's Ret. Sys., 219 N.J. 369, 380 (2014) (quoting Russo v. Bd. of Trs., Police & Firemen's Ret. Sys., 206 N.J. 14, 27 (2011)). The party challenging the administrative action bears the burden of making that showing. Lavezzi v. State, 219 N.J. 163, 171 (2014).

We defer to administrative agencies in recognition of their "expertise and superior knowledge of a particular field." Greenwood v. State Police Training Center., 127 N.J. 500, 513 (1992) (citing Clowes v. Terminix Int'l, 109 N.J. 575, 587 (1988)). In our review of the Department's authority, we must acknowledge "[t]he breadth and importance of [its] expertise and discretionary authority in

matters of prison policy, regulation and administration." Ortiz v. N.J. Dep't of Corr., 406 N.J. Super. 63, 70 (App. Div. 2009).

II.


Suarez argues the Department improperly garnished payments from CARES Act and ARPA, and that those payments, like the CAA payment, were exempt from any debt collection, including court-imposed fines and restitution. Therefore, the garnishment of these funds was arbitrary and capricious.

The Department is authorized to collect fines, assessments and restitution imposed by the Superior Court as part of an inmate's criminal sentence under N.J.S.A. 2C:46-4(a)(1), "[e]xcept where prohibited by State or Federal statute" N.J.A.C. 10A:2-2.2(d)(6). The CARES Act and ARPA, unlike the CAA, do not exempt stimulus payments from being garnished for the purpose of fulfilling court-ordered fines and restitution.

Therefore, the Department's decision to withhold plaintiff's funds to pay his court-ordered debts falls within its authorized actions under N.J.S.A. 2C:46-4. Suarez cannot sustain his burden of proving the Department's decision was arbitrary, capricious, or unreasonable, or that it was not supported by the substantial credible evidence in the record.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION