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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-1224-22**

LOUIS URCINOLI,

Appellant,

v.

**NEW JERSEY DEPARTMENT
OF CORRECTIONS,**

Respondent.

Submitted May 28, 2024 – Decided June 7, 2024

Before Judges Paganelli and Whipple.

On appeal from the New Jersey Department of Corrections.

Louis Urcinoli, appellant pro se.

Matthew J. Platkin, Attorney General, attorney for respondent (Janet Greenberg Cohen, Assistant Attorney General, of counsel; Christopher C. Josephson, Deputy Attorney General, on the brief).

PER CURIAM

Appellant, Louis Urcinoli, an inmate at Northern State Prison (NSP), appeals from the Department of Correction's (DOC) April 20, 2023 response to his assertion the DOC is not in compliance with the Isolated Confinement Restriction Act (ICRA), N.J.S.A. 30:4-82.5 to -82.11. We affirm.

Under ICRA, "isolated confinement" is defined as:

confinement of an inmate in a correctional facility, pursuant to disciplinary, administrative, protective, investigative, medical, or other classification, in a cell or similarly confined holding or living space, alone or with other inmates, for approximately [twenty] hours or more per day in a State correctional facility . . . with severely restricted activity, movement, and social interaction. Isolated confinement shall not include confinement due to a facility-wide or unit-wide lockdown that is required to ensure the safety of inmates and staff.

[N.J.S.A. 30:4-82.7.]

The ICRA provides

an inmate shall not be placed in isolated confinement unless there is reasonable cause to believe that the inmate would create a substantial risk of serious harm to himself or another, including but not limited to a correctional police officer or other employee or volunteer in the facility, as evidenced by recent threats or conduct, and a less restrictive intervention would be insufficient to reduce this risk.

[N.J.S.A. 30:4-82.8(a)(1).]

On November 2, 2022, Urcinoli filed an Inmate Inquiry Form (IRSF-101), along with a memorandum alleging NSP was non-compliant with ICRA, because the DOC had not returned to the same schedule that existed before the social isolation required by the COVID pandemic, and the newly adopted schedule was more restrictive. Urcinoli filed a second inquiry form as confirmation of his filing of the first inquiry form.

On November 17, 2022, Urcinoli prepared a grievance form, asserting the DOC never responded to his earlier submissions, and this failure constituted a denial of his claims regarding ICRA. One month later, on December 18, 2022, NSP employee Fathom Borg responded to the November 2, 2022 inquiry, stating, "[t]hank you for this information." This appeal followed.

After Urcinoli filed the notice of appeal, the DOC investigated but could not find any record of his November 17, 2022 grievance form. The DOC supplemented its response to Urcinoli's November 2, 2022 inquiry on February 16, 2023. The supplemental response stated, "[a]fter a formal review of your concerns, the Administrator and the Major's Office determined incarcerated persons housed in [General Population] housing are provided with the appropriate opportunity for out of cell activities."

However, because the DOC did not respond to the November 17 grievance, which is required under N.J.A.C. 10A:1-4.6 to exhaust administrative remedies, the DOC moved for remand. We granted the motion and retained jurisdiction.

Following the remand,¹ on April 20, 2023, DOC Division Director, John Falvey, responded to Urcinoli's November 2022 grievance and inquiry forms.

The response stated,

[The DOC] is complying with the ICRA. Your inquiry form and memo seem to focus solely on the [r]ecreation or [y]ard time. However, there are other activities which satisfy the out of cell time requirement. Time is allotted for school, medical, library, visits, mess, jobs, kiosk access, etc. Specific times allotted can vary depending on the particular housing unit, custody status, disciplinary status, medical needs and emergencies.

The ICRA defines [i]solated [c]onfinement as approximately [twenty] hours of in-cell time WITH severely restricted activity, movement and social interaction. Two pre-conditions have to be met for a particular housing to be defined as [i]solation [c]onfinement and therefore potentially running afoul of the ICRA. When taking into account the variety of out of cell opportunities afforded to all incarcerated persons, your inquiry alleging widespread violations of the ICRA does not appear to have merit.

¹ Subsequent to the DOC's April 20, 2023 remand decision, Urcinoli submitted several additional grievances related to application of the ICRA. Those grievances are not part of this appeal.

In this appeal, Urcinoli asserts the DOC is in violation of ICRA because at least some NSP general population inmates are required to remain in their cells more than twenty hours per day and some inmates are being denied "reasonable and equitable access to public telephones" under N.J.A.C. 10A:18-8.1.

We first address ICRA's application. ICRA does not apply to general population inmates such as Urcinoli. However, even if it did, he has not produced any evidence the DOC is either failing to comply with ICRA or has failed to provide access to telephones. Urcinoli alleges, on the days he does not work his prison job, he is confined to his cell for more than twenty hours per day. He provides no evidence to support this claim, or to support his claim that other NSP general population inmates are confined to their cells for more than twenty hours per day.


Urcinoli also provides no evidence to refute Falvey's April 20, 2023 correspondence, explaining that the out-of-cell time requirement includes the time "allotted for school, medical, library, visits, mess, jobs, kiosk access" and other activities. Thus, he provides nothing to support his claim of widespread ICRA violations. Urcinoli's claim the DOC denied NSP general population

inmates "reasonable and equitable access to public telephones" under N.J.A.C. 10A:18-8.1(a) also fails.

Under N.J.A.C. 10A:18-8.1(a), the DOC is authorized to limit the hours of telephone availability, the length of telephone calls and to otherwise place "[a]ny limitation and/or condition on telephone calls." As with his claims under ICRA, Urcinoli provides baseless assertions with no support that the DOC is denying inmates reasonable and equitable access to telephones.

Any remaining arguments raised by Urcinoli are without sufficient merit to warrant 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