

STATE OF RHODE ISLAND
DEPARTMENT OF CORRECTIONS
40 HOWARD AVENUE
CRANSTON, RHODE ISLAND

In the Matter of the Petition of
Richard Paiva for a Declaratory
Ruling

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RIDOC2024PDR007

DECISION

Introduction

On May 9, 2024, the Department of Corrections (“Department”) received Petitioner’s *Petition for Declaratory Ruling* (“Petition A,” attached hereto as Exhibit A.) In Petition A, the Petitioner requests that the Department issue a “declaratory order which declares how and in which manner does Policy 24.01-7 prohibit me from sending and/or receiving mail, with my name listed as the primary sender/recipient, and another individual listed as the secondary sender/recipient, when there is no finding by the RIDOC that I am participating in illegal activities.”

In support of Petition A, Petitioner sets forth that he “legally assisted [] four individuals with filling out a claims form, as their requested representative. And now their mail is being sent to [him] as being their representative.” As a result of his assistance, Petitioner asserts that “the processing firm addresses [his] incoming mail

with [his] name listed first, and the other individual names listed secondary.” Petitioner also asserts that the dual addressee lines have resulted in the Maximum Security Facility mail officer repeatedly rejecting this incoming mail. Petitioner concludes his Petition by suggesting that the Department verify the legality of his assistance by contacting Kroll Restructuring directly, but in the meantime, to issue the aforementioned declaratory ruling.

On May 28, 2024, nineteen days after receiving Petition A, the Department received a second Petition for Declaratory Ruling (“Petition B,” attached hereto as Exhibit B) from Petitioner. In Petition B, the Petitioner requests a declaratory order “which states whether, or in what manner RIDOC Policy 24.01-7 applies to me, in so far as to my incoming mail being prohibited/rejected because the 4 letters were addressed to me, but also had a secondary name under mine, for which the letters were in reference to.” In support of Petition B, Petitioner states that he “had 4 incoming letters rejected because they were addressed to [him], but had secondary names for which the letters are in reference to. Hence, an injury in fact to me.” Petitioner goes on to allege that “RIDOC asserts that I am prohibited from receiving incoming privileged mail which have secondary names on the envelopes for which the letters are in reference to; while I assert that the Inmate Mail Policy 24.01-7 does not prohibit such mail. Hence, a controversy between the RIDOC and I.”

Since these Petitions are based on the same operative facts and seek almost identical declarations, the Department has chosen to consolidate Petitioner’s Petitions and issues the following decision.

Issue

Whether the Department shall issue a declaratory order, decline to issue an order, or schedule the matter for further consideration.

Discussion

The applicable law regarding petitions for declaratory orders in the administrative law context begins with R.I. Gen. Laws § 42-35-8(a), which states: “[a] person may petition an agency for a declaratory order that interprets or applies a statute administered by the agency or states whether, or in what manner, a rule, guidance document, or order issued by the agency applies to the petitioner.” Additionally, R.I. Gen. Laws § 42-35-8(c) provides: “[n]ot later than sixty (60) days after receipt of a petition under subsection (a), an agency shall issue a declaratory order in response to the petition, decline to issue the order, or schedule the matter for further consideration.” If an agency declines to issue a declaratory order, the decision must be in a record and must include a brief statement of the reasons for declining. An agency decision to decline to issue a declaratory order is subject to judicial review for abuse of discretion.

Petitioner’s request for a declaratory ruling is not justiciable. The Rhode Island Supreme Court has stated that R.I. Gen. Laws § 42-35-8 is “an administrative counterpart of the Declaratory Judgments Act.” *Liguori v. Aetna Casualty & Surety Company*, 384 A.2d 308, 312 (R.I. 1978). It is well-settled rule that “the Superior Court is without jurisdiction under the Uniform Declaratory Judgments Act unless it is confronted with an actual justiciable controversy.”


McKenna v. Williams, 874 A.2d 217, 226 (R.I. 2005). This principal applies equally to declaratory rulings under § 42-35-8. See *City of Providence Board of Licenses v. Department of Business Regulation of R.I.*, 2013 R.I. Super. LEXIS 195, *9 (November 18, 2013). “It is fundamental that, to be entitled to a declaratory judgment, a plaintiff must both demonstrate a personal stake in the outcome of the controversy and advance allegations claiming an entitlement to actual and articulable relief.” *McKenna*, 874 A.2d at 227. The Declaratory Judgments Act was “not intended to serve as a forum for the determination of abstract questions or the rendering of advisory opinions.” *Lamb v. Perry*, 225 A.2d 521, 523 (1967).

The Petitioner’s request for a declaratory ruling would require the Department to issue an advisory opinion as there is no present, actual controversy before the Department. The letters at issue in this matter were temporarily withheld from Petitioner because they raised security concerns as the envelopes were secondarily addressed to members of the general public. The Department, pursuant to Policy 24.01-7, Inmate Mail, permits prisoners access to correspondence so long as it “pose[s] no threat to the safety and security of the facility . . . the general public . . . and [is not] being used to further illegal activities.” Since the filing of these Petitions, the letters have been cleared for any threat or furtherance of illegal activity and have been provided to Petitioner.¹ See Petitioner’s signed letter of receipt attached hereto as Exhibit C. These events have

¹The Department believes it is necessary to note that Petitioner would have received these letters sooner had he not expressly advised the Warden’s office to keep and preserve the letters. Any increased delay was due to the Petitioner’s request.

deprived Petitioner of any basis for actual or articulable relief. Any decision by this Department would have no practical effect on the “controversy” raised by Petitioner because this matter has been resolved through the proper channel, the Maximum Security Facility Administration. As a result, Petitioner’s requests for declaratory ruling are moot. *See In re Westerly Hospital*, 963 A.2d 636, 638 (R.I. 2009) (“a case is moot if the original complaint raised a justiciable controversy, but events occurring after the filing have deprived the litigant of a continuing stake in the controversy” and “[i]f a decision by this Court would fail to have a practical effect on the existing controversy, the question is moot, and we will not render an opinion on the matter”). Mindful of the fact that there is no justiciable basis for the requested declaratory rulings, the Department will not render an opinion on this matter.

For these reasons, the Department declines to issue a declaratory order.



Wayne T. Salisbury, Jr.
Director
Department of Corrections

July 8, 2024

NOTICE OF APPELLATE RIGHTS

This decision constitutes a denial to issue a declaratory order requested under R.I. Gen. Laws § 42-35-8(a). Pursuant to R.I. Gen. Laws § 42-35-8(d), this order may be subject to judicial review.

Certification

I hereby certify that on this 8th day of July 2024, that a copy of the within Decision was sent by inter-department mail to:

Richard Paiva (#86429)
Maximum Security
P.O. Box 8273
Cranston RI 02929



Exhibit A

Richard Paiva
ID # 86429
MAX H1-41

Department of Corrections

MAY 09 2024

Office of the Director

May 7, 2024

TO: Acting Director Salisbury

I hereby petition the RIDOC for a declaratory order pursuant to R.I. Gen. Laws, Section 42-35-8(a), that declares how and in which manner the RIDOC interprets and applies the RIDOC Inmate Mail Policy 24.01-7 to me, insofar as to being prohibited from sending and/or receiving mail which includes a secondary name on the envelope. For

Example: Richard Paiva, ID# 86429
Maria Elaine Hirstius
P.O. BOX 8273
Cranston, RI

02920

I had previously assisted my

sister, step daughter, and my step daughters parents with filling out a legal claims form as their representative, as per their request.

And now the processing firm addresses my incoming mail with my name listed first, and the other individual names listed secondary.

The problem lies with the Maximum Security Mail Room officer repeatedly rejecting my incoming mail based on the above.

I legally assisted these 4 individuals with filling out a claims form, as their requested representative. And now, their mail is being sent to me as being their representative.

If the RTDOC wishes to verify the legality of things, it is free to contact Kroll Restructuring.

But in the meantime, please issue a declaratory order which declares how and in which manner does Policy 24-01-7 prohibit me from sending and/or receiving mail, with my name listed as the primary sender/recipient, and another individual listed as the secondary sender/recipient, when there is no finding by the PJDIC that I am participating in illegal activities.

Thank you,
Richard Paine

Exhibit B

David Paiva
ID # 86429
MAX H1-41

Department of Corrections

MAY 28 2024

Office of the Director

May 26, 2024

TO: RIDOC

I recently had 4 incoming letters rejected because they were addressed to me, but had secondary names for which the letters are in reference to. Hence, an injury in fact to me.

The RIDOC asserts that I am prohibited from receiving incoming privileged mail which have secondary names on the envelopes for which the letters are in reference to; while I assert that the Inmate Mail Policy 24.01-7 does not prohibit such mail. Hence, a controversy between the RIDOC and I.

Wherefore, I hereby petition the
RIDOC for a declaratory order
pursuant to R.I.G.L. 42-35-8(a),
which states whether, or in what
manner RIDOC Policy 24.01-7
applies to me, insofar as to
my incoming mail being prohibited/
rejected because the 4 letters
were addressed to me, but also
had a secondary name under
mine, for which the letters
were in reference to.

Thank you,
Richard Parviz

Exhibit C



RHODE ISLAND DEPARTMENT OF CORRECTIONS

Maximum Security
PO Box 8273
Cranston, RI 02920

June 14, 2024

Richard Paiva ID#86429



Mr. Paiva,

I was approached by Deputy Warden Lantagne today informing me that you had spoken with him and indicated that you would like to receive the letters from Kroll Restructuring Administration against your last advisement to the Warden's office. I have approved your request to receive them per your conversation with the Deputy Warden.

Please sign the line below stating that you are in receipt of the letters and a copy will be returned to the Warden's office.

Warden Corry

I, Richard Paiva, am in receipt of the four letters from Kroll Restructuring Administration as of June 14, 2024.

Signature: Richard Paiva

Cc: Inmate File