

RANDY MCGOWAN

v.

MAINE DEPARTMENT OF CORRECTIONS

Submitted on Briefs October 21, 2015

Decided October 27, 2015

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Randy McGowan, an inmate at the Maine State Prison, appeals from an order of the Superior Court (Knox County, *Billings, J.*) denying his motion for findings and conclusions, and for reconsideration, following an order denying his petition for judicial review of a final disciplinary decision by the Department of Corrections (DOC). We treat his motion for the court to “reconsider” the order denying his petition as a motion to alter or amend, brought pursuant to M.R. Civ. P. 59(e), and treat his pro se appeal as one that is also taken from the underlying order denying his petition. *See Most v. Most*, 477 A.2d 250, 256 n.2 (Me. 1984); M.R. App. P. 2(b)(3)-(4).

Contrary to McGowan’s contentions, the court’s decision was sufficient for the purposes of M.R. Civ. P. 52, and the court did not abuse its discretion by denying his motion for findings and conclusions. *See In re Jacob B.*, 2008 ME 168, ¶ 15, 959 A.2d 734; *Peters v. Peters*, 1997 ME 134, ¶ 12, 697 A.2d 1254. McGowan’s motion failed to identify any clear error in the court’s findings or conclusions, and the court did not abuse its discretion by denying his request to reconsider the substance of its decision. *See Cates v. Farrington*, 423 A.2d 539, 541 (Me. 1980).

With respect to merits of the order on McGowan’s petition, the court did not err by concluding that 03-201 C.M.R. ch. 20.1, § B(8) (2014) is a directory policy, or by declining to vacate McGowan’s disciplinary report and sanctions based upon DOC’s technical violation of § B(8). *See Davric Me. Corp. v. Me. Harness Racing Comm’n*, 1999 ME 99, ¶ 13, 732 A.2d 289; *Anderson v. Comm’r of Dept. of Health & Human Servs.*, 489 A.2d 1094, 1099 (Me. 1985). Although the court was not empowered to “deny” McGowan’s petition, *see* 5 M.R.S. § 11007(4) (2014), the court’s order demonstrates that it reviewed the substance of McGowan’s claims, and has the same effect as a decision affirming DOC’s final disciplinary decision. Because the court’s procedural error did not affect McGowan’s right to judicial review, we overlook the error and affirm. *See State v. Black*, 2007 ME 19, ¶ 28, 914 A.2d 723 (Alexander, J., dissenting).

The entry is:

Judgment affirmed.

On the briefs:

Randy McGowan, pro se appellant

Janet T. Mills, Attorney General, and James E. Fortin, Asst.
Atty. Gen., Office of the Attorney General, Augusta, for
appellee Department of Corrections