

**IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT**

COMMONWEALTH EX REL. MR. EARL	:	No. 18 MAP 2007
R. VANCE, JR.,	:	
	:	
Appellant	:	Appeal from the Order of the
	:	Commonwealth Court at No. 592 MD 2006
	:	entered on January 17, 2006.
v.	:	
	:	
	:	
MR. JEFFREY A. BEARD, SECRETARY	:	
FOR THE PA. DEPARTMENT OF	:	
CORRECTIONS,	:	
	:	
Appellee	:	

**ORDER**

**PER CURIAM**

**DECIDED: September 26, 2007**

In its order sustaining the Department of Corrections' demurrer, the Commonwealth Court indicated that it was addressing the Department's amended DC-ADM 803-1's "restrictions on obscene materials." The court held that the policy was valid in this regard, because it advances a variety of legitimate penological interests. However, the petition for review in this case essentially conceded this point, challenging the policy only to the extent that it extends to non-obscene materials. Since the Commonwealth Court's order does not address the relevant challenge, it cannot be upheld.

Accordingly, the Commonwealth Court's order is VACATED and the matter is remanded for further proceedings. We offer no opinion concerning whether the matter

is otherwise amenable to disposition on preliminary objections. However, in its final disposition of the matter, the Commonwealth Court is directed to specifically address Appellant's contention that the Department of Corrections' policy amendment conflicts with an existing substantive regulation promulgated under the Commonwealth Documents Law which has the force and effect of law.

Jurisdiction is relinquished.