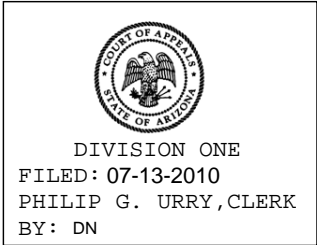


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



FOX JOSEPH SALERNO,) 1 CA-CV 09-0295
)
Petitioner/Appellant,) DEPARTMENT D
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
DORA B. SCHRIRO; ARIZONA DEPARTMENT OF) Rule 28, Arizona Rules
CORRECTIONS,) of Civil Appellate
) Procedure)
Respondents/Appellees.)
_____)

Appeal from the Superior Court of Maricopa County

Cause No. LC2008-000770-001 DT

The Honorable Joseph Kreamer, Judge

AFFIRMED

Fox Joseph Salerno, Florence
Petitioner/Appellant *In Propria Persona*

Terry Goddard, Attorney General Phoenix
By Lisa Parsons, Assistant Attorney General
Attorneys for Respondents/Appellees

T H O M P S O N, Judge

¶1 Fox Joseph Salerno (Salerno) appeals from the trial court's order declining jurisdiction of his special action. For the reasons that follow, we affirm.

¶2 Salerno, an inmate at the Arizona Department of Corrections (ADOC) Florence facility, filed a special action in

superior court alleging that ADOC violated his constitutional rights and various state and agency law and policy by keeping him housed at a high security facility, by issuing "fake disciplinaries," and by failing to process his appeals. Salerno maintains that in the absence of the "fake disciplinaries" he would have been reclassified and eligible for housing in a medium security facility. In ADOC inmate disciplinary report 08A30006, Salerno was charged with an extortion or intimidation violation after he sent a correctional officer a letter threatening to have a friend find the correctional officer's home address and drop off his grievances against the officer personally. In disciplinary report 08A120095, Salerno was charged with an extortion violation for sending a letter to another correctional officer accusing the officer of owing him \$93.60 for missing property and threatening to send a friend to the officer's house to collect the debt from the officer or the officer's family. Salerno was found guilty of both violations.

¶13 On appeal, Salerno argues that the trial court abused its discretion in declining to accept jurisdiction of his special action. Acceptance of special action jurisdiction is highly discretionary. *Pompa v. Super. Court In and For the County of Maricopa*, 187 Ariz. 531, 931 P.2d 431 (App. 1997). In part, the trial court declined to accept jurisdiction because it found that Salerno's due process rights had not been violated in the context of ADOC's disciplinary process. The record on appeal includes

reports of the pertinent incidents including the contents of the letters written by Salerno which are threatening and which support the disciplinary action against him. The trial court did not abuse its discretion in declining jurisdiction on the basis that there was no merit to Salerno's petition.

¶14 For the foregoing reasons, the trial court is affirmed.

/s/

JON W. THOMPSON, Judge

CONCURRING:

/s/

MICHAEL J. BROWN, Presiding Judge

/s/

SHELDON H. WEISBERG, Judge