

**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

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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

JOHN P. BAKER,)	
)	2 CA-CV 2011-0048
Plaintiff/Appellant,)	DEPARTMENT A
)	
v.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
D. CARRILLO and CHARLES RYAN,)	Rule 28, Rules of Civil
)	Appellate Procedure
Defendants/Appellees.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. CV201004232

Honorable Craig A. Raymond, Judge Pro Tempore

AFFIRMED

John P. Baker

Florence
In Propria Persona

Thomas C. Horne, Arizona Attorney General
By Paul E. Carter

Tucson
Attorneys for Defendants/Appellees

BRAMMER, Judge.

¶1 John Baker, an inmate in the custody of the Arizona Department of Corrections (ADOC), appeals from the trial court’s judgment declining to accept jurisdiction of his complaint for special action and dismissing the action. We affirm.

¶2 We view the facts in the light most favorable to upholding the trial court’s ruling. *Hornbeck v. Lusk*, 217 Ariz. 581, ¶ 2, 177 P.3d 323, 324 (App. 2008). Baker filed a complaint for special action relief alleging ADOC employees had allowed inmates with gang affiliation to be housed with “regular” inmates, including him. Baker claimed he had been “subjected to gang verbal threats and other disruptive behavior” and asked the court to order ADOC to segregate gang-affiliated inmates from other prison inmates. The court declined to accept jurisdiction and dismissed the action. This appeal followed.

¶3 On appeal from a special action, we conduct a two-part review of the trial court’s ruling, first determining whether the court “in its discretion assumed jurisdiction of the merits of the claim.” *Bilagody v. Thorneycroft*, 125 Ariz. 88, 92, 607 P.2d 965, 969 (App. 1979). If the court did not assume jurisdiction of the claim, as in this case, “then there exists no trial court determination for the appellate court to review, and the sole issue on appeal is whether the trial court abused its discretion when it declined to accept jurisdiction.” *Id.* “The acceptance of special action jurisdiction is highly discretionary,” *Harris Trust Bank of Ariz. v. Superior Court*, 188 Ariz. 159, 162, 933 P.2d 1227, 1230 (App. 1996), and we will uphold the denial of special action relief for any valid reason disclosed by the record, *State ex rel. Ariz. Dep’t of Econ. Sec. v. Kennedy*, 143 Ariz. 341, 345, 693 P.2d 996, 1000 (App. 1985).

¶4 A party is required to exhaust available administrative remedies in situations such as the one here before bringing an action in superior court. *See Minor v. Cochise Cnty.*, 125 Ariz. 170, 172, 608 P.2d 309, 311 (1980). Baker concedes he pursued no administrative remedies but contends his grievance was one of “classification” and therefore not subject to the inmate grievance procedures.¹ He is incorrect. ADOC Order 802.01 § 1.1 states:

The Inmate Grievance Procedure is designed to address inmate complaints related to any aspect of institutional life or condition of confinement that directly and personally affects the inmate grievant including Department Orders, Director’s Instructions, Institution and Post Order, Technical Manuals and written instructions, procedures and the actions of staff.

Baker’s complaint is clear—his grievance concerned the inmates housed around him and not his own classification. Baker’s issues with neighboring inmates fall within the grievance procedures as an “aspect of institutional life or condition of confinement.” Because Baker failed to exhaust his administrative remedies, the trial court did not abuse its discretion in declining to accept jurisdiction over Baker’s petition for special action.

¹ADOC Order 802.01 § 1.3.5 excludes classification actions from the inmate grievance procedures because they have an independent appeal process. Inmates are classified according to security risk and may request administrative review of their classification scores or custody levels pursuant to ADOC Order 801.12 only when evidence indicates information used in the scoring was incorrect or when evidence that would have affected the result has been omitted.

For the foregoing reasons, we affirm the court's declination of jurisdiction over, and dismissal of, Baker's complaint.²

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Presiding Judge

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

²Although the state argued several other bases upon which we could affirm the court's ruling, because Baker did not exhaust his administrative remedies, we need not address them.