

Commonwealth of Kentucky

Court of Appeals

NO. 2009-CA-001837-MR

WILBUR J. RIDDLE

APPELLANT

v.

APPEAL FROM FRANKLIN CIRCUIT COURT
HONORABLE THOMAS D. WINGATE, JUDGE
ACTION NO. 09-CI-00837

KENTUCKY DEPARTMENT OF CORRECTIONS;
LT. BRIAN TAYLOR; STEVE HANEY, WARDEN;
ARVIL CHAPMAN, WARDEN; AND CHRISTOPHER
RAKES

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: CAPERTON AND COMBS, JUDGES; LAMBERT,¹ SENIOR JUDGE.

LAMBERT, SENIOR JUDGE: Wilbur J. Riddle filed a petition for declaration of rights which the Franklin Circuit Court dismissed. Upon our review, we affirm the decision of that trial court.

¹ Senior Judge Joseph E. Lambert sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

Riddle is a prisoner detained at a facility overseen by the Kentucky Department of Corrections. He is serving a sentence of imprisonment imposed after being found guilty of a felony crime. During his incarceration he has twice been charged with disciplinary violations of the rules of the institutions where he has been incarcerated. As a result of those infractions, the Department of Corrections rescinded his “good time credits” which are granted to inmates provided they serve their sentence without disciplinary incidents.

Riddle presents a detailed description of why and how he believes he is innocent of any disciplinary charges and asks this court, as he did the circuit court, to reinstate his good time credits and dismiss and expunge any disciplinary proceedings against him. He argues the “reviewing Circuit Court failed to give any consideration to the facts of the case and the lacks (sic) of evidence.”

Prisoner access to the courts is governed by Kentucky Revised Statute (KRS) 454.415(1). It specifies:

(1)(a) No action shall be brought by an inmate, with respect to a prison disciplinary proceeding or challenges to a sentence calculation or challenges to custody credit, until administrative remedies as set forth in Department of Corrections policies and procedures are exhausted.

Id. The statute further requires that “[t]he inmate shall attach to any complaint filed documents verifying that administrative remedies have been exhausted.”

KRS 454.415(1)(c). Riddle failed to comply with this requirement.

In order to challenge the outcome of a disciplinary proceeding, an inmate is required to raise any claimed error and submit an administrative appeal to

the warden of the detention facility. Kentucky Administrative Regulations (KAR) 6:020, CPP 15.6(F). Failure to raise a particular issue during the administrative appeal with the warden precludes subsequently raising that issue through any appeal to a court. The basis of his appeal must be documented by the attachments to any complaint that his administrative remedies have been exhausted. We have previously addressed this exact situation and stated:

It is impossible to determine whether the arguments in [Petitioner's] petition for declaration of rights were identical to those raised before the Warden. The circuit court was, therefore, unable to ascertain whether [Petitioner] had exhausted his administrative remedies[.]

Houston v. Fletcher, 193 S.W.3d 276, 278 (Ky. App. 2006).

Here, Riddle's failure to submit the documents showing he exhausted his available administrative remedies was fatal to his request for relief. Absent evidence of the issues he may or may not have brought before the warden on an administrative appeal, the circuit court was unable to proceed unless it had the documents proving the required information. Dismissal in that situation was not only appropriate but was required.

We therefore affirm the Franklin Circuit Court's dismissal of Riddle's petition for declaration of rights.

ALL CONCUR.

BRIEF FOR APPELLANT:

Wilbur J. Riddle, *pro se*
Sandy Hook, Kentucky

BRIEF FOR APPELLEE:

J. Todd Henning
Frankfort, Kentucky