

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Alexander Morales-Rivera,	:	
Appellant	:	
	:	
v.	:	No. 1029 C.D. 2010
	:	Submitted: January 7, 2011
Ryan P. Aument, Lancaster County	:	
Clerk of Courts Court Administrator	:	

BEFORE: HONORABLE BERNARD L. MCGINLEY, Judge
HONORABLE P. KEVIN BROBSON, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE FRIEDMAN

FILED: March 3, 2011

Alexander Morales-Rivera (Appellant) appeals from the May 4, 2010, order of the Court of Common Pleas of Lancaster County (trial court), which dismissed Appellant's motion requesting a hearing to determine his ability to pay court-ordered fines, costs and restitution, and further requesting return of monies to his inmate account. We affirm.

Appellant was convicted of several offenses, was sentenced and was directed to pay costs and to make restitution. On January 11, 2007, the clerk of courts submitted a copy of Appellant's outstanding accounts to the State Correctional Institution at Camp Hill. This document indicated that Appellant owed \$853.85,

which was subsequently deducted from Appellant's inmate account, rendering the account paid in full.

On April 30, 2010, Appellant filed a motion seeking an ability-to-pay hearing and return of the \$853.85 from Lancaster County. The trial court determined that the Department of Corrections (DOC) was statutorily authorized to deduct the money from Appellant's inmate account and that Appellant was not entitled to a prior hearing on his ability to pay. Thus, on May 4, 2010, the trial court denied the motion. Appellant now appeals to this court.¹

Appellant contends that the trial court erred in denying his motion because the failure to hold an ability-to-pay hearing violated his due process rights. We disagree. In *Buck v. Beard*, 583 Pa. 431, 879 A.2d 157 (2005), our supreme court held that a sentencing hearing provides all the process required before deductions are made from an inmate account.

Appellant also argues that the clerk of courts lacked statutory authority to request the deductions from his inmate account because the amount of his costs

¹ Our review of a trial court's order is limited to determining whether an inmate's constitutional rights were violated and whether the trial court committed an error of law or abused its discretion. *Commonwealth v. Parella*, 834 A.2d 1253, 1255 (Pa. Cmwlth. 2003).

We note that, in *Parella*, this court held that an inmate seeking to end the deduction of money from his inmate account was required to file an action against the DOC in this court's original jurisdiction. Because the inmate in *Parella* filed a motion in the court of common pleas, this court held that the court of common pleas lacked jurisdiction over the matter. This case is distinguishable from *Parella* because Appellant is **not** seeking to end the deduction of money from his inmate account. Indeed, the DOC has completed its deductions and transferred the money to the county.

and restitution was less than \$1,000.00. We disagree. Section 9728(b)(5) of the Sentencing Code does not require costs and fines to exceed \$1,000.00 before they may be assessed against an inmate account. 42 Pa. C.S. §9728(b)(5).

Accordingly, we affirm.

ROCHELLE S. FRIEDMAN, Senior Judge

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ORDER

AND NOW, this 3rd day of March, 2011, the May 4, 2010, order of the Court of Common Pleas of Lancaster County is hereby affirmed.

ROCHELLE S. FRIEDMAN, Senior Judge