

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Commonwealth of Pennsylvania :
 : No. 1212 C.D. 2010
 v. :
 : Submitted: December 23, 2010
 Jeffrey R. Martin, :
 :
 Appellant :

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
 HONORABLE ROBERT SIMPSON, Judge
 HONORABLE P. KEVIN BROBSON, Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION
BY JUDGE SIMPSON**

FILED: March 18, 2011

Jeffrey R. Martin (Martin), representing himself, appeals from an order of the Court of Common Pleas of Greene County (trial court) that denied his motion to compel the Department of Corrections (DOC) to cease deducting funds from his inmate account pursuant to Act 84.¹ Because Martin cannot engage DOC in a motion filed in the trial court under the original criminal caption, we affirm on jurisdictional grounds.

¹ 42 Pa. C.S. § 9728 (Collection of restitution, reparation, fees, costs, fines and penalties). The legislation commonly known as Act 84, passed by the General Assembly in 1998, amended Section 9728 of the Sentencing Code. See Act of June 18, 1998, P.L. 640, No. 84, as amended, 42 Pa. C.S. §9728.

The General Assembly recently amended Section 9728. DOC is now authorized to collect “costs imposed under section 9721(c.1)” in addition to court-ordered obligations. 42 Pa. C.S. §9728 (b)(5). Sections 9721 (c.1) and 9728 (b.2) address the mandatory payment of costs, even without a court order. See 2010 Pa. Legis. Serv. Act 2010-96. However, because the trial court sentenced Martin before the effective date of these additions, they are inapplicable here. Id.

The sparse facts from the record include that Martin is incarcerated at a state correctional institution.² Martin gives his current address as “Graterford, PA.”

In 2008, the trial court sentenced Martin to death for first degree murder and to various sentences of incarceration for related charges. Apparently thereafter, DOC began deducting funds from Martin’s inmate account pursuant to Act 84.

In 2010, in Greene County, Martin filed a motion to compel DOC to cease deducting funds from his inmate account under Act 84. Martin filed his motion at the docket number and caption of his original criminal case. The caption did not name DOC or any officer of DOC as a respondent. In his motion, Martin averred that because his sentencing order did not expressly impose upon him the payment of costs, DOC erred in making deductions from his account.

Without hearing, the trial court denied Martin’s motion. The trial court’s order states (with emphasis added):

AND NOW, this 3rd day of May, 2010, the Court not having assessed fines upon the defendant at the time of sentencing, but the Court costs being collectible by operation of Pennsylvania law, and further, the

² The record transmitted by the trial court consists of the following: docket entries for CP-30-CR-458-2006; copy of the Motion to Compel; Order dated 5/3/10; Notice of Appeal and Order for Transcripts; Martin’s Verified Statement pursuant to Pa. R.A.P. 551 and 552; Notice of Docketing Appeal from Commonwealth Court; Order for filing of a concise statement, dated 6/14/10; Concise Statement pursuant to Pa. R.A.P. 1925(b); and Pa. R.A.P. 1925(a) statement.

Court not having jurisdiction to grant the relief requested, it is ORDERED that the defendant's motion is denied.

Martin appeals from this order.

On appeal,³ Martin asserts: the Clerk of Courts of Greene County erred in requesting DOC make deductions from his account; DOC erred in making the deductions; he is entitled to reimbursement of the monies deducted; the trial court erred in not conducting a hearing on his motion; and, the Clerk of Courts of Greene County and DOC violated his due process and equal protection rights. However, in the argument portion of his brief, Martin consolidates his arguments and asserts that DOC erred in deducting monies from his account absent an order by the sentencing court requiring payment of costs. Martin seeks reimbursement of the monies deducted.

Pursuant to Act 84, DOC is authorized “to make monetary deductions from inmate personal accounts for the purpose of collecting restitution or any other court-ordered obligation” and to establish guidelines for fulfilling its responsibilities under the Act. 42 Pa. C.S. §9728 (b)(5). DOC is an administrative agency within the Executive Branch of the Commonwealth. 71 P.S. §61.⁴

Section 761(a)(1) of the Judicial Code vests this Court with original and exclusive jurisdiction over civil suits filed against the Commonwealth

³ Our review is limited to whether the trial court, in its order, violated Martin's constitutional rights, committed an error of law or abused its discretion. Commonwealth v. Lyons, 830 A.2d 663 (Pa. Cmwlth. 2003).

⁴ The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended.

government, with delineated exceptions not applicable here. 42 Pa. C.S. §761; Chruby v. Dep't of Corr., 4 A.3d 764 (Pa. Cmwlth. 2010). This Court's original jurisdiction also includes suits against the Commonwealth and another party when the Commonwealth party is indispensable. Id. "A Commonwealth party may be declared an indispensable party when meaningful relief cannot conceivably be afforded without the Commonwealth party's direct involvement in the action." Id.; Ballroom, LLC v. Commonwealth, 984 A.2d 582, 587-88 (Pa. Cmwlth. 2009).

Generally, a state inmate who wishes to challenge Act 84 deductions must do so in this Court's original jurisdiction. Commonwealth v. Danysh, 833 A.2d 151 (Pa. Super. 2003). However, where the method by which an inmate seeks to end Act 84 deductions involves the validity or modification of the underlying sentence, original jurisdiction lies with the trial court. Commonwealth v. Parella, 834 A.2d 1253 (Pa. Cmwlth. 2003).

Here, Martin, a state inmate, raised no claims implicating his underlying sentence in his motion to compel. See Parella. Before the trial court, Martin's intent was to stop DOC from making Act 84 deductions from his account. In sum, Martin improperly filed his motion with the trial court. Danysh; Parella. The trial court was correct in its determination that Martin's recourse is a separate action against an agency of the Commonwealth or an officer thereof in this Court's original jurisdiction. Id.⁵

⁵ Although DOC argues it is not a proper party because it ceased making Act 84 deductions from Martin's inmate account, and Martin is not entitled to reimbursement against DOC for funds in the possession of the sentencing county, the very limited record does not **(Footnote continued on next page...)**

Under many circumstances, Martin's filing in the trial court could be transferred to this Court's original jurisdiction. See 42 Pa. C.S. §5103(a). Here, however, Martin failed to name DOC or an officer of DOC as a respondent. See Danysh, 833 A.2d at 154 n.4 (when filing Act 84 petition in Commonwealth Court, inmate should name Secretary of DOC as respondent; otherwise, Commonwealth Court may dismiss petition for naming improper party); Parella, 834 A.2d at 1255 n.5 (when filing Act 84 challenge, prisoner should name agency of the Commonwealth or officer thereof). Therefore, without an amendment of the caption, a transfer will not bring a proper Commonwealth party into this Court. Id. Moreover, insofar as the trial court lacks jurisdiction over Martin's petition, it is unclear whether it could compel an amendment of the caption. Under these circumstances, we will not require a transfer; rather, we will permit Martin to file a new action in this Court's original jurisdiction naming the proper respondent. See Commonwealth v. Jackson, 858 A.2d 627 (Pa. Super. 2004) (in Act 84 challenge, Superior Court affirmed trial court's decision that it lacked jurisdiction, without prejudice to inmate's ability to file new action in Commonwealth Court's original jurisdiction).

Accordingly, the trial court's order is affirmed on jurisdictional grounds without prejudice to Martin to proceed consistent with this opinion.

ROBERT SIMPSON, Judge

(continued...)

support these assertions. Thus, these unsupported assertions do not alter our conclusion that original jurisdiction over this matter lies in this Court.

