

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Woodrow Mitchell and	:	
Others Similarly Situated,	:	
Petitioners	:	
	:	
v.	:	
	:	
Department of Corrections and	:	
The J-Pay Company,	:	No. 687 M.D. 2010
Respondents	:	Submitted: April 1, 2011

BEFORE: HONORABLE DAN PELLEGRINI, Judge
HONORABLE ROBERT SIMPSON, Judge
HONORABLE JOHNNY J. BUTLER, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
JUDGE BUTLER

FILED: May 4, 2011

Woodrow Mitchell (Mitchell), an inmate at the State Correctional Institution at Huntingdon (SCI-Huntingdon) filed a Petition for Review in the form of a Complaint, in this Court’s original jurisdiction, seeking injunctive relief against the Department of Corrections (Department), and the J-Pay Company (J-Pay). The Department and J-Pay filed Preliminary Objections to the Petition for Review. For reasons set forth in this opinion, we sustain the preliminary objections, and dismiss Mitchell’s Petition for Review.

On September 1, 2010, the Department began using J-Pay for the processing of all money orders sent to inmates in the custody of the Department. On October 12, 2010, Mitchell filed a pro-se Petition for Review against the Department and J-Pay alleging that the Department’s exclusive use of J-Pay is a violation of the Sherman and Clayton Antitrust Acts.¹ The Petition for Review seeks an injunction against the Department and J-Pay from continuing its policy regarding inmate

¹ 15 U.S.C. §§ 1-7; 15 U.S.C. §§ 12, 13, 14-19, 21, 22-27.

account deposits. On November 10, 2010, the Department and J-Pay each filed Preliminary Objections to the Petition for Review. The preliminary objections are currently before the Court.²

Initially, the Department argues that this Court lacks subject matter jurisdiction over antitrust claims because federal courts have exclusive jurisdiction over such matters.³ Specifically, the Department contends that the Sherman Antitrust Act and the Clayton Antitrust Act provide that the district courts have jurisdiction over antitrust claims, thus this matter should be dismissed. We agree.

Section 4 of the Sherman Antitrust Act specifically states: “The several district courts of the United States are invested with jurisdiction to prevent and restrain violations . . . of this title” 15 U.S.C. § 4. Section 15(a) of the Clayton Antitrust Act specifically states: “any person who shall be injured . . . by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States” 15 U.S.C. § 15(a).

Here, Mitchell’s complaint avers a violation of the antitrust laws and it specifically cites the “Sherman Anti-trust Act” and the “Clayton Act.” Department’s Br. App. A. It is well-settled that federal courts have exclusive jurisdiction of federal

² This Court has held:

The standards for sustaining preliminary objections in the nature of a demurrer are quite strict. A demurrer admits every well-pleaded material fact set forth in the pleadings to which it is addressed as well as all inferences reasonably deducible therefrom, but not conclusions of law In order to sustain the demurrer, it is essential that the plaintiff’s complaint indicate on its face that his claim cannot be sustained, and the law will not permit recovery If there is any doubt, this should be resolved in favor of overruling the demurrer.

Pa. Med. Soc’y v. Foster, 585 A.2d 595, 598 (Pa. Cmwlth. 1991) (quoting *Gekas v. Shapp*, 469 Pa. 1, 5-6, 364 A.2d 691, 693 (1976)).

³ In its brief, J-Pay states that it concurs with the Department’s arguments regarding this issue.

antitrust claims. *Hand v. Kansas City S. Ry. Co.*, 55 F.2d 712 (D.C.N.Y. 1931). While Mitchell may be entitled to an accounting in state court, the state court has no jurisdiction to grant injunctive relief in antitrust matters. *Id.* Mitchell is specifically requesting that this Court enjoin the Department, based on the antitrust laws, from enforcing its policy of using J-Pay exclusively for any money orders in possession of the prison. Thus, this Court has no jurisdiction to grant such relief.

Notwithstanding the above, we will address the issues raised in the preliminary objections filed by the Department and J-Pay. First, the Department and J-Pay argue that they are immune from liability on Mitchell's federal antitrust claims under the State Action Doctrine because the Department contracted with J-Pay pursuant to its exclusive authority to safely and efficiently administer the function of state correctional institutions. We agree.

“[The State Action Doctrine] provides immunity from the antitrust laws if the state articulates a clear policy to allow the anti-competitive conduct and actively supervises the anti-competitive conduct undertaken by private actors.” *Bowers v. T-Netix*, 837 A.2d 608, 612 n.10 (Pa. Cmwlth. 2003). The state has a clear policy of allowing prison officials to enter into anti-competitive contracts, and the policy is actively supervised by the state given its exclusive control over prisons. Specifically, the Department is charged with the safe and secure administration of state correctional institutions, and is entitled to contract for those services necessary to carry out those functions. Thus, we conclude that the Department and J-Pay, as one of the state's private vendors, are entitled to antitrust immunity under the State Action Doctrine.

Next, the Department and J-Pay argue that Mitchell does not have standing to bring this cause of action. We agree.

In order to have standing to challenge an official order or action, a party must be aggrieved by the action or order. For a party to be considered aggrieved, he must have a substantial, direct, immediate and not remote interest in the subject matter of the litigation. An interest is “substantial” if it is an interest in the resolution of the challenge which surpasses the common interest of all citizens in procuring the obedience to the law. A ‘direct’ interest requires a showing that the matter complained of caused harm to the party’s interest, i.e., a connection between the harm and the violation of the law. Finally, an interest is ‘immediate’ if the causal connection is not remote or speculative.

In re Administrative Order No. 1-MD-2003, 594 Pa. 346, 358, 936 A.2d 1, 8 (2007) (citations omitted). Here, Mitchell is not aggrieved as his only contention regarding the Department’s exclusive use of J-Pay is the *potential* harm it will cause his family and friends. Clearly, he does not have a substantial, direct, immediate and not remote interest in the subject matter of the litigation. Thus, Mitchell does not have standing to maintain this action.

Finally, the Department and J-Pay argue that Mitchell has failed to state a cognizable constitutional claim because he has no protected interest in having money orders processed by the Department, and the Department has a legitimate penological interest in controlling access to such services. We agree. Again, Mitchell claims that his family and friends have a right to use whoever they want to process their money orders. However, “there is no constitutional right for [Mitchell] to attempt to protect on their behalf.” *Ferri v. Pa. Dep’t of Corr.*, No. 4:10-CV-1706 (M.D. Pa. September 14, 2010), slip op. at 4.

For the foregoing reasons, Mitchell’s Complaint fails to state a claim upon which relief may be granted, and it will be dismissed.

JOHNNY J. BUTLER, Judge

Judge Pellegrini concurs in the result only.

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ORDER

AND NOW, this 4th day of May, 2011, the Preliminary Objections filed by Department of Corrections and the J-Pay Company are sustained, and the Petition for Review filed by Woodrow Mitchell is dismissed.

JOHNNY J. BUTLER, Judge