

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES A. BIGGINS,	§
	§
Petitioner Below-	§ No. 209, 2008
Appellant,	§
	§
v.	§
	§ Court Below—Court of Chancery
GOVERNOR RUTH ANN	§ of the State of Delaware,
MINNER and the STATE OF	§ in and for New Castle County
DELAWARE,	§ C.A. No. 3623
	§
Respondents Below-	§
Appellees.	

Submitted: June 18, 2008  
Decided: September 16, 2008

Before **HOLLAND, BERGER,** and **JACOBS,** Justices.

**ORDER**

This 16<sup>th</sup> day of September 2008, after careful consideration of appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, James Biggins, filed this appeal from an order of the Court of Chancery dismissing his complaint seeking a preliminary injunction. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Biggins' opening brief that his appeal is without merit. We agree and affirm.

(2) Biggins filed the action below seeking an injunction against the respondents to stop certain alleged practices preventing legal access to the courts by incarcerated individuals. Biggins alleged that settlement agreements reached in two prior inmate lawsuits<sup>1</sup> obligated the State to provide free pens, pencils, paper, envelopes, postage, and photocopying services to inmates defending or pursuing court cases. After receiving a response from the State to Biggins' complaint, the trial court dismissed the action on the grounds that Biggins had failed to satisfy the standards for injunctive relief. Specifically, the trial court held that Biggins could not establish that he was likely to succeed on the merits, nor could he establish an actual injury.

(3) We agree. In the first instance, Biggins does not dispute the State's contention that inmates have not been charged for photocopying legal documents since the Department of Correction implemented a policy change in 2003.<sup>2</sup> More importantly, Biggins' petition did not demonstrate, or even allege, that the State's actions had caused him actual injury by

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<sup>1</sup> *Dickerson v. Castle, et al.*, C.A. No. 10256 (Del. Ch. Nov. 28, 1988); *Hearn v. Redman*, C.A. No. 83-794-MMS (D. Del. Dec. 12, 1985).

<sup>2</sup> Furthermore, this Court affirmed a 1997 Court of Chancery ruling, which held that the Department of Correction's then-existing policy of charging inmates \$.25 per page for photocopies did not represent an unconstitutional impediment to inmates' access to the courts. *See Simpson v. Snyder*, 1997 WL 588863 (Del. Sept. 17, 1997).

“hinder[ing] his efforts to pursue a legal claim.”<sup>3</sup> Absent any allegation of actual injury, Biggins could not succeed on the merits of his claim for injunctive relief. Accordingly, we find it manifest that the judgment below should be affirmed on the basis of the Court of Chancery’s well-reasoned decision dated April 9, 2008.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Court of Chancery is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>3</sup> See *Lewis v. Casey*, 518 U.S. 343, 351 (1996).