

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONALD E. PROCTOR,	§	
	§	
Plaintiff Below,	§	No. 353, 2001
Appellant,	§	
	§	
v.	§	Court Below- Justice of the
	§	Peace Court of the State of
	§	Delaware, in and for Sussex
JUSTICE OF THE PEACE	§	County in Court No. 17
COURT #17 and EDWARD G.	§	
DAVIS,	§	
	§	
Defendants Below,	§	
Appellees.	§	

Submitted: September 10, 2001  
Decided: September 13, 2001  
Amended: September 27, 2001

Before **VEASEY**, Chief Justice, **BERGER** and **STEELE** Justices.

**AMENDED ORDER**

This 27<sup>th</sup> day of September 2001, upon consideration of the motion to dismiss filed by the State of Delaware, and the appellant's response to the motion to dismiss, it appears to the Court that:

(1) The appellant, Ronald E. Proctor, is incarcerated at the Sussex Correctional Institution ("SCI"). Proctor has filed a notice of appeal from an order of the Justice of the Peace Court that dismisses, without prejudice, Proctor's replevin action brought against a staff person at SCI as well as an

inmate, who was previously housed at SCI.<sup>1</sup> The Justice of the Peace Court found that Proctor's complaint failed to state a cause of action. The Justice of the Peace Court also questioned whether or not it had "jurisdiction over property taken from a prisoner of the state penal system."<sup>2</sup>

(2) This Court lacks jurisdiction to consider an appeal directly from the Justice of the Peace Court.<sup>3</sup> Proctor's appeal fails to invoke the jurisdiction of this Court.

NOW, THEREFORE, IT IS ORDERED that Proctor's appeal is DISMISSED for lack of jurisdiction.

BY THE COURT:

/s/ Myron T. Steele  
Justice

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<sup>1</sup> The Court provided that Proctor would "re-file" the complaint.

<sup>2</sup> *But see Hamilton v. Redman, et al.*, Del. Super., C.A. Nos. 86C-SE-38; 86M-SE-1, Gebelein, J., 1998 WL 39990 (April 19, 1988) (" '[T]he Constitution protects a prisoner from arbitrary seizure of or interference with items of personal property by state officials acting under color of state law' ") (quoting *Thornton v. Redman*, D.Del., 435 F.Supp. 876, 880 (1977); *cf. Taylor v. Snyder, et al.*, Del. Supr., No. 15, 1999, Veasey, C.J., 1999 WL 486627 (May 4, 1999) (ORDER) (ruling on the merit of an appeal of a prisoner's replevin action that was brought in the Justice of the Peace Court); *cf. Scott v. Walsh*, Del. Super., C.A. No. 95C-06-067, Quillen, J., 1996 WL 946033 (April 19, 1996).

<sup>3</sup> Del. Const. Art. IV, § 11; 10 *Del. C.* § 9571(a).