

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL SANTIAGO,	§	
	§	
Plaintiff Below-	§	No. 2, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for Kent County
DELAWARE CORRECTIONAL	§	C.A. No. 03C-07-047
CENTER, BUSINESS OFFICE,	§	
JOE HUDSON, SUPPORT	§	
MANAGER, and JOHN DOES (1-	§	
10),	§	
	§	
Defendants Below-	§	
Appellees.	§	

Submitted: March 3, 2004

Decided: April 20, 2004

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

ORDER

This 20th day of April 2004, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The plaintiff-appellant, Michael Santiago, filed an appeal from the Superior Court's December 23, 2003 order dismissing his complaint as legally frivolous and denying his motion to proceed in forma pauperis. The defendants-appellees, Delaware Correctional Center ("DCC"), the DCC business office, Joe Hudson, support manager at DCC, and other employees of the business office at

DCC (collectively, “State Defendants”) have moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Santiago’s opening brief that the appeal is without merit.¹ We agree and AFFIRM.

(2) On July 29, 2003, Santiago filed a complaint in the Superior Court alleging that the State Defendants had violated Delaware statutory law,² his constitutional rights,³ and his civil rights⁴ by applying the money in his prisoner account to his outstanding bill for photocopying legal materials.⁵ Santiago alleged that the State Defendants should have set aside a portion of this money so that he could purchase “basic needs and essentials” at the commissary. On the same date, Santiago also filed an application to proceed in forma pauperis (“IFP”).

(3) In this appeal, Santiago claims that: a) the Superior Court committed legal error by dismissing his complaint as legally frivolous; and b) the Superior Court improperly conducted a substantive review of his complaint prior to

¹ Supr. Ct. R. 25(a).

² Del. Code Ann. tit. 11, § 6534(b) (2001).

³ In his opening brief, Santiago argues that the Superior Court incorrectly addressed his claim, in part, as a First Amendment “access to the courts” claim. He requests this Court to address his claim solely as a claim of “cruel and unusual punishment” under the Eighth Amendment.

⁴ 42 U.S.C. § 1983 (1994).

⁵ This money consisted of money orders sent to Santiago by family and friends as well as wages earned by Santiago while in prison.

determining whether he could proceed IFP and failed to give him an opportunity to amend his complaint.

(4) Santiago's first claim is that the Superior Court erred by dismissing his complaint. As the Superior Court correctly determined, however, the Delaware statutory provision cited by Santiago in support of his claim governs only the amount of an inmate's wages that may be applied to the Victim's Compensation Fund and has no bearing on deductions from the account of a prisoner who is indebted to the prison for photocopying charges. Moreover, as the Superior Court also correctly determined, Santiago failed to allege any facts supporting either a constitutional or civil rights violation.⁶

(5) Santiago's second claim is that the Superior Court improperly conducted a substantive review of his complaint prior to ruling on his IFP application. Under the IFP statute, once an IFP application is approved, the Superior Court will authorize the filing of the complaint and establish the amount of fees and costs to be paid.⁷ Then, the Superior Court will conduct a substantive

⁶ *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981) (in order to state a claim of "cruel and unusual punishment" under the Eighth Amendment, an inmate must allege conditions that deprive him of "the minimal civilized measure of life's necessities").

⁷ Del. Code Ann. tit. 10, §§ 8802(b) and 8803(a) (1999).

review of the complaint to determine if the claims are factually frivolous, legally frivolous or malicious.⁸

(6) In this case, the complaint and IFP application were filed on the same date and, therefore, the Superior Court conducted a substantive review of the complaint at the same time it reviewed the IFP application. The Superior Court determined that, since the complaint was legally frivolous, there was no basis for granting Santiago's application to proceed IFP. In the absence of any discernible prejudice to Santiago, we find no error or abuse of discretion on the part of the Superior Court in proceeding in this manner. Moreover, there was no abuse of discretion on the part of the Superior Court in not providing Santiago an opportunity to amend his complaint, since there was no motion to amend before it.

(7) It is manifest on the face of Santiago's opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

⁸ Del. Code Ann. tit. 10, § 8803(b).

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State Defendants' motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice