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**IN THE
COURT OF APPEALS OF INDIANA**

MICHAEL C. BRIDGES,)
)
 Appellant-Plaintiff,)
)
 vs.) No. 46A03-0509-CV-419
)
 CECIL DAVIS, et al.,)
)
 Appellees-Defendants.)

APPEAL FROM THE LaPORTE SUPERIOR COURT
The Honorable William J. Boklund, Judge
Cause No. 46D04-0309-CT-393

November 15, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Judge

Michael C. Bridges appeals the trial court's grant of summary judgment to Cecil Davis, Robert Shriner, Linda VanNatta, and Edwin Buss (collectively, "Indiana Department of Correction" or "IDOC"), and the trial court's denial of his motion for summary judgment. Bridges raises three issues, which we consolidate and restate as whether the trial court erred by granting summary judgment to the IDOC and denying Bridges's motion for summary judgment regarding Bridges's claim that the IDOC improperly deprived him of contact visits. We affirm.¹

The relevant designated facts follow. Bridges is an inmate in the IDOC at the Indiana State Prison in Michigan City, Indiana. IDOC Executive Directive # 98-35 provides:

When an offender is found in possession of or distributing a controlled substance, it shall be assumed that the controlled substance came into the facility through trafficking. In addition to the sanctions imposed by the Disciplinary Hearing Body, an administrative review of the situation shall be conducted. If the administrative review determines that the offender was indeed in possession of a controlled substance, the offender shall be permitted to have only non-contact visits. In such cases, the facility shall adhere to the following guidelines:

First offense:	Six (6) months non-contact visits
Second offense:	Twelve (12) months non-contact visits
Third offense:	Permanent non-contact visits

The offender shall be permitted to grieve this action through the offender grievance process.

¹ Bridges was granted an extension of time until July 21, 2006, to file his reply brief. However, Bridges did not file his reply brief until August 11, 2006. Consequently, we do not consider his reply brief in deciding this appeal. See Browning v. Walters, 616 N.E.2d 1040, 1043 n.1 (Ind. Ct. App. 1993) (holding that we need not consider the arguments in the appellant's reply brief because of his failure to file a timely reply brief). Moreover, given our resolution of this matter on a basis different than that argued by Bridges, consideration of the reply brief would not have impacted the outcome of this matter.

Appellee's Appendix at 24. Further, Executive Directive # 99-06 provides that an offender can be denied contact visits based upon the refusal to submit to a drug test.

On March 16, 2002, Bridges received a Report of Conduct alleging that Bridges had refused to submit to a urinalysis test. After a disciplinary hearing, Bridges was found to have refused to submit to a urinalysis and was sanctioned to a deprivation of ninety days of earned credit time. Additionally, on April 18, 2002, the IDOC permanently modified Bridges's visitation privileges to noncontact visits as a result of his refusal to submit to drug tests on three separate occasions. Shriner, an IDOC unit manager, recommended the permanent noncontact visits based upon a review of Bridges's records. Shriner found that Bridges had been assigned to six months of noncontact visits on February 18, 1999, as a result of his refusal to submit to a drug test. Further, "[b]ased upon [his] review of the Offender Information System, [he] determined that offender Bridges had been found guilty of failing to provide a urine specimen while confined at the Miami Correctional Facility." Id. at 23. It was Shriner's "impression that offender Bridges had received a twelve-month non-contact visitation sanction" Id. Buss, the assistant superintendent of the Indiana State Prison, agreed with Shriner's recommendation, and Davis, the superintendent of the Indiana State Prison, approved the recommendation.

On April 22, 2002, Bridges filed a grievance, alleging that he had never been involved in trafficking or in possession of contraband and that the IDOC had no clear reason or suspicion to believe that his contact visits would jeopardize the safety of the

institution. Davis reviewed and denied Bridges's grievance. Bridges then appealed Davis's decision, alleging in part that his contact visits could not be restricted under Executive Directive #98-35. On June 6, 2002, Linda VanNatta, administrative assistant for the IDOC in Indianapolis, denied Bridges's appeal, finding that "Executive Directive #99-06 has been correctly followed by staff as this is your third occurrence. The non-contact visitation restriction shall remain as a permanent sanction and will not be changed." Appellant's Appendix at 133.²

On September 22, 2003, Bridges filed a complaint against the IDOC and later filed an amended complaint. In the amended complaint, Bridges sought compensatory, punitive, and treble damages and alleged that: (1) he was deprived of his statutory rights to contact visitation under Ind. Code § 11-11-3-8; and (2) he was deprived of his protected liberty interest without due process under Article I, § 12 of the Indiana Constitution when he was denied his contact visits without a hearing or opportunity to challenge the decision.

Bridges filed a motion for summary judgment, and the IDOC filed a cross motion for summary judgment. Following briefing of the motions for summary judgment, the trial court ordered the parties to submit additional arguments concerning the impact of

² On January 28, 2005, Davis reviewed Bridges's file and determined that, although Bridges refused a drug screen on November 29, 2000, and an administrative decision was made to place Bridges on a one-year noncontact visitation restriction as a second offense, no documentation to substantiate the restriction could be found in Bridges's file. Due to the lack of documentation of the second noncontact restriction, Davis determined that Bridges qualified for contact visitation, but that any further failures to provide drug screens would be considered for the third and permanent noncontact visitation restriction.

Blanck v. Ind. Dep't of Corr., 829 N.E.2d 505 (Ind. June 22, 2005). The trial court then entered an order granting IDOC's motion for summary judgment, denying Bridges's motion for summary judgment, and dismissing Bridges's claims.

The issue is whether the trial court erred by granting summary judgment to the IDOC and denying Bridges's motion for summary judgment regarding Bridges's claim that the IDOC improperly deprived him of contact visits. Our standard of review for a trial court's grant of a motion for summary judgment is well settled. Summary judgment is appropriate only where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Ind. Trial Rule 56(c); Mangold ex rel. Mangold v. Ind. Dep't of Natural Res., 756 N.E.2d 970, 973 (Ind. 2001). All facts and reasonable inferences drawn from those facts are construed in favor of the nonmovant. Id. Our review of a summary judgment motion is limited to those materials designated to the trial court. Id. We must carefully review a decision on summary judgment to ensure that a party was not improperly denied its day in court. Id. at 974.

In this appeal, Bridges argues that the IDOC violated Ind. Code § 11-11-3-8³ when it imposed a noncontact visitation restriction and that the IDOC violated his due

³ Ind. Code § 11-11-3-8 provides:

A confined person may receive visitors at reasonable times. The department may, for the purpose of maintaining the security of its facilities and programs, the safety of individuals, and administrative manageability, place reasonable restrictions on visits consistent with the following:

- (1) Visits may be conducted in areas where a confined person and his visitors are not physically separated and that allow for as much informality and privacy as

process rights because it did not notify him of his first and second noncontact visitation restrictions. However, although not mentioned by either Bridges or the State, we resolve this matter on the basis of the Indiana Supreme Court’s decisions in Zimmerman v. State, 750 N.E.2d 337 (Ind. 2001), and Blanck v. Ind. Dep’t Corr., 829 N.E.2d 505 (Ind. 2005).

In Zimmerman, an inmate challenged the restriction of his visitation privileges to noncontact visitation for six months, and the Indiana Supreme Court held that the Indiana legislature had not enacted any statutory authorization providing for judicial review of a disciplinary decision of a penal institution. Zimmerman, 750 N.E.2d at 337-338. Consequently, the relief sought by the inmate was “not available in Indiana courts.” Id. at 338.

In Blanck, the inmate challenged the IDOC’s failure to conduct periodic reviews of his segregation and alleged that his statutory rights had been violated and that he was entitled to judicial review under the Open Courts Clause of Article I, § 12 of the Indiana Constitution. Blanck, 829 N.E.2d at 507. The Indiana Supreme Court held that the

possible. Contact visits may be denied for a confined person who is assigned to a maximum security unit.

- (2) Any restrictions regarding visiting times, the number of visitors a person may receive on a particular occasion or during a designated period of time, or the duration of a particular visit must take into account the accessibility of the facility or program to the visiting public, including sources of public transportation to or from the facility or program, and the distance a potential visitor must travel to visit with an offender.
- (3) Any restrictions imposed on visitation under this section must be communicated to the confined person and be made accessible to the visiting public.
- (4) The department may not impose restrictions on visitation that obstruct the availability of adequate legal representation, although an attorney or his agent may be required to visit during normal departmental working hours or at other reasonable times.

inmate did not have an explicit statutory right to judicial review of such inmate claims, that the statutes governing the IDOC did not imply a right to judicial review of such inmate claims, and that the inmate was not entitled to judicial review under Article I, § 12 of the Indiana Constitution. Id. at 508-511. Thus, the court concluded that the inmate's claim was properly dismissed because the trial court lacked subject matter jurisdiction. Id. at 511-512.

Based upon Zimmerman and Blanck, we conclude that the trial court properly dismissed Bridges's claims. See, e.g., Smith v. McKee, 850 N.E.2d 471 (Ind. Ct. App. 2006) (holding that the trial court properly dismissed the inmate's claims concerning the prison's disciplinary actions but that the trial court erred by dismissing the inmate's excessive force claims).

For the foregoing reasons, we affirm the trial court's judgment.

Affirmed.

MATHIAS, J. and KIRSCH, C. J. concur