

Case Summary

Gary Joe Harrison, pro se, appeals the trial court's decision to grant summary judgment in favor of Bill Wilson, Superintendent of the Indiana State Prison. We hold that this case was not properly before the trial court because Harrison failed to exhaust his administrative remedies through the Indiana State Prison in his efforts to receive educational credit time. Finding no error in the trial court's ruling, we affirm the grant of summary judgment in favor of Wilson.

Facts and Procedural History

On December 22, 1992, Harrison was sentenced to forty years at the Indiana State Prison (ISP) for Class A felony dealing in cocaine or narcotic drug. Appellant's App. p. 18. In 1997, Harrison earned both a certificate in anger management and a certificate for completing a course in a substance abuse program while incarcerated at ISP. *Id.* at 10. He also obtained a Federal Emergency Management Agency certificate and a high school diploma through correspondence. *Id.* at 11-12.

Harrison claims that he did not receive any educational credit time for completing these programs, and if he had, he would be entitled to immediate release. He filed a pro se petition for a writ of habeas corpus on October 25, 2010. *Id.* at 8-13. Wilson filed a motion for summary judgment on December 7, 2010, and Harrison filed a motion in opposition to Wilson's motion for summary judgment on January 7, 2011. *Id.* The trial court granted summary judgment in favor of Wilson on March 11, 2011, finding that Harrison had failed to exhaust the administrative remedies available to him and that his argument for educational credit time was without merit. *Id.* at 26.

Harrison now appeals.

Discussion and Decision

Harrison contends that the trial court erred in granting summary judgment in favor of Wilson. We disagree. He raises multiple arguments about educational credit time he believes he earned during his incarceration, but we need not reach these arguments, as his failure to exhaust his administrative remedies is dispositive of this case.

When reviewing the entry or denial of summary judgment, our standard of review is the same as that of the trial court: summary judgment is appropriate only where there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. Ind. Trial Rule 56(C); *Dreaded, Inc. v. St. Paul Guardian Ins. Co.*, 904 N.E.2d 1267, 1269 (Ind. 2009). All facts established by the designated evidence, and all reasonable inferences from them, are to be construed in favor of the nonmoving party. *Naugle v. Beech Grove City Sch.*, 864 N.E.2d 1058, 1062 (Ind. 2007).

The trial court granted summary judgment for Wilson, finding that Harrison had failed to exhaust the administrative remedies available to him at ISP before filing suit. “The burden is on the offender to show what the relevant [Department of Correction] procedures are and that he has exhausted them at all levels.” *Burks-Bey v. State*, 903 N.E.2d 1041, 1044-45 (Ind. Ct. App. 2009) (citing *Young v. State*, 888 N.E.2d 1255, 1257 (Ind. 2008)). Without exhausting these alternative avenues of relief, a case of this nature is not properly before the trial court. *See Young*, 888 N.E.2d at 1257.

In this case, Harrison has provided only two grievance forms and has not indicated how that was an exhaustion of the remedies available to him at ISP. Appellant’s App. p.

16-17. With only this evidence presented to the trial court, it did not err in determining that Harrison had neither shown what the available administrative remedies are, nor what actions he took to exhaust those remedies. As a result, this case was not properly before the trial court, so we need not reach the issue of whether Harrison was entitled to receive credit time for the educational programs he completed. We therefore affirm the trial court's grant of summary judgment in favor of Wilson.

Affirmed.

ROBB, C.J., and NAJAM, J., concur.