

IN THE COURT OF APPEALS OF IOWA

No. 9-032 / 08-1205
Filed March 11, 2009

STANLEY L. HART III,
Petitioner-Appellant,

vs.

**JOHN BALDWIN, KRISTINE WEITZEL,
CORNELL SMITH, DARLENE BAUGH,
MARY DICK, DON HARRIS and
IOWA DEPARTMENT OF CORRECTIONS,**
Respondents-Appellees.

Appeal from the Iowa District Court for Webster County, Kurt L. Wilke,
Judge.

Stanley Hart III appeals from the district court's order dismissing his
petition for judicial review of agency action. **AFFIRMED.**

Stanley Hart, Fort Dodge, pro se appellant.

Thomas J. Miller, Attorney General and H. Loraine Wallace, Assistant
Attorney General, for appellees.

Considered by Sackett, C.J., and Potterfield and Mansfield, JJ.

POTTERFIELD, J.

Stanley Hart, III is currently incarcerated at the Iowa State Penitentiary in Fort Madison, Iowa, serving a life sentence. Between March 2005 and October 2008, Hart was incarcerated at the Fort Dodge Correctional Facility in Fort Dodge, Iowa. In January 2008, prison officials promoted Hart from privilege level three to privilege level four. Privilege level four inmates are housed in either Unit F or Unit E. Hart was moved to Unit E. Hart did not want to be housed in Unit E. Hart appealed his classification through the prison administrative process, but his appeal was denied.

Hart then filed a petition for judicial review of agency action pursuant to Iowa Code section 17A.19 (2007). He alleged that his constitutional rights were violated by the promotion to a higher privilege level and the consequent change in his housing unit. Through their counsel, the Attorney General's office, the respondents timely filed a pre-answer motion to dismiss. The district court granted the motion to dismiss, finding that it lacked subject matter jurisdiction because the respondents had not been served; the named respondents were not proper parties; and the applicant had no entitlement or right to be housed in a particular unit within the prison and was therefore not aggrieved or adversely affected by his promotion to Unit E. Hart appeals from the district court's order.

We agree with the district court that Hart failed to state a claim upon which any relief could be granted. Hart does not have a liberty interest in being confined in any particular unit or under any particular classification. *Drennan v. Ault*, 567 N.W.2d 411, 414 (Iowa 1997); *Freitas v. Ault*, 109 F.3d 1335, 1337 (8th

Cir. 1997). Because Hart has no constitutional or statutory entitlement to be housed in a particular unit, his claim fails as a matter of law.

AFFIRMED.