

RENDERED: AUGUST 27, 2010; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2009-CA-002148-MR

LARRY E. WATKINS-EL

APPELLANT

v. APPEAL FROM FRANKLIN CIRCUIT COURT
HONORABLE THOMAS D. WINGATE, JUDGE
ACTION NO. 09-CI-00885

LADONNA THOMPSON, COMMISSIONER;
ROB HOWERTON, WARDEN;
ART GORMAN, LAW LIBRARY; AND
STACY ROLAND, FISCAL MANAGER

APPELLEES

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: TAYLOR, CHIEF JUDGE; DIXON, JUDGE; HENRY,¹ SENIOR
JUDGE.

¹ Senior Judge Michael L. Henry sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

DIXON, JUDGE: Larry E. Watkins-El, *pro se*, appeals an opinion and order of the Franklin Circuit Court dismissing his petition for a declaration of rights on the basis that he failed to exhaust his administrative remedies. We affirm.

In May 2009, Watkins-El filed a petition seeking a declaration that he is indigent, that he is entitled to spend half of his state inmate paycheck, and that he is entitled to free materials for legal services, such as pen, paper, photocopies, and postage. Watkins-El asserted that prison officials unfairly charged him for legal supplies, despite his indigent status, which resulted in a lien against his inmate bank account. On October 16, 2009, the trial court dismissed the petition because Watkins-El failed to comply with KRS 454.415(3) by failing to provide verification that he had exhausted his administrative remedies. This appeal followed.

KRS 454.415 states:

- (1) No action shall be brought by or on behalf of an inmate, with respect to a prison disciplinary proceeding or challenges to a sentence calculation or challenges to custody credit or to prison conditions, until administrative remedies as set forth in Department of Corrections policies and procedures are exhausted.
- (2) Administrative remedies shall be exhausted even if the remedy the inmate seeks is unavailable.
- (3) The inmate shall attach to any complaint filed documents verifying that administrative remedies have been exhausted.

Section 14.6 of the DOC policy and procedure regulations sets forth the procedure for filing an inmate grievance. The administrative process consists

of four stages and culminates with a review of the grievance by the DOC commissioner.

In the case at bar, Watkins-El attached several documents to his circuit court complaint; however, he did not include any documentation verifying that he had exhausted his administrative remedies as required by KRS 454.415(3). Further, Watkins-El asserts in his reply brief that the grievance process is unfair and that he exhausted his administrative remedies by writing letters to the warden and the commissioner.

After careful review of the record on appeal, we agree with the trial court that Watkins-El failed to comply with the requirements of KRS 454.415; consequently, the court properly dismissed the petition. *See Houston v. Fletcher*, 193 S.W.3d 276 (Ky. App. 2006).

For the reasons stated herein, we affirm the order of the Franklin Circuit Court.

ALL CONCUR.

BRIEFS FOR APPELLANT:

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BRIEF FOR APPELLEES:

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