

Decision: 2019 ME 144

Docket: Kno-19-88

Submitted

On Briefs: September 10, 2019

Decided: September 17, 2019

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, and HJELM JJ.

STEVE ANCTIL

v.

DEPARTMENT OF CORRECTIONS

PER CURIAM

[¶1] Steve Anctil appeals from an order of the Superior Court (Knox County, *Mallonee, J.*) finding that his M.R. Civ. P. 80C petition for review of a disciplinary action taken against him by the Department of Corrections (DOC) was not brought in good faith and was frivolous. Based on that finding, the court denied Anctil's application to proceed without prepaying the filing fee and ordered that his petition be dismissed without prejudice unless he paid the fee within seven days of the order. *See* 4 M.R.S. § 1058(1)-(2) (2018); M.R. Civ. P. 91(b).

[¶2] Anctil's petition, which we must examine in the light most favorable to him, *Fleming v. Dep't of Corr.*, 2006 ME 23, ¶ 1, 892 A.2d 1161, makes out a colorable claim for relief in alleging that the DOC failed to conduct a proper

disciplinary hearing, made arbitrary findings unsupported by the record before punishing him, and violated his constitutional and statutory rights in doing so, *see* 5 M.R.S. § 11007(4)(C) (2018). Accordingly, “we cannot construe the complaint as frivolous as a matter of law,” and, because Anctil “appears otherwise qualified as indigent for purposes of waiving the filing fee,” we must vacate the order. *Fleming*, 2006 ME 23, ¶¶ 1-2, 892 A.2d 1161.

The entry is:

Order denying leave to proceed in forma pauperis vacated. Remanded with instructions to approve Anctil’s application for leave to proceed without payment of fees or costs.

Steve Anctil, appellant pro se

Knox County Superior Court docket number AP-2019-2
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