IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Mark A. Robinson,	:	
Appellant	:	
	:	
v.	:	No. 487 C.D. 2011
	:	Submitted: August 19, 2011
Robert B. MacIntyre, Chief Hearing Examiner, DOC	:	
	:	

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE ROBERT SIMPSON, Judge
HONORABLE JAMES R. KELLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE SIMPSON **FILED: October 3, 2011**

Mark A. Robinson (Robinson), representing himself, appeals an order of the Court of Common Pleas of Centre County (trial court) that dismissed his complaint and his application to proceed in forma pauperis (IFP). The trial court dismissed Robinson's action based on its determination that it lacked jurisdiction over Department of Corrections' (DOC) inmate misconduct proceedings. We affirm.

In his complaint, captioned as an action in mandamus, Robinson made three factual averments: 1) he is an inmate at the State Correctional Institution at Rockview (SCI-Rockview); 2) in October 2010, DOC found him guilty of misconduct; and, 3) DOC dismissed his internal appeals related to this matter. Robinson further averred DOC's chief hearing examiner should have corrected any and all errors Robinson believed were committed throughout the misconduct hearing and appeals process. As to relief requested, Robinson asked the trial court

to either grant him an evidentiary hearing, or compel DOC to conduct a second hearing. With his complaint, Robinson filed an IFP application.[1]

After reviewing Robinson's complaint and IFP application, the trial court dismissed the entire action. In its order, the trial court stated that, based on a review of the petition, Robinson did not qualify for IFP status. In a supporting opinion, the trial court explained it lacked jurisdiction over DOC's disciplinary proceedings, and, in the alternative, Robinson's IFP application was not in compliance with the requirements of the Prison Litigation Reform Act (PLRA), 42 Pa. C.S. §§ 6601-6608.

Before this Court,[2] Robinson argues the trial court erred in dismissing his action. Specifically, Robinson contends jurisdiction in the trial court was proper, and the trial court improperly denied his IFP application by relying on an unconstitutional statutory provision.

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[1] On the same day, Robinson filed a nearly identical complaint and IFP application related to a subsequent inmate misconduct adjudication, which raised the same issues of law and requests for relief. In like fashion, the trial court issued nearly identical orders and opinions dismissing both actions. Robinson's second action is the subject of our decision in the companion case of Robinson v. Office of the Chief Hearing Examiner, (Pa. Cmwlth., No. 505 C.D. 2011, filed October 3, 2011).

[2] "[A]s a pure question of law, the standard of review in determining whether a court has subject matter jurisdiction is de novo and the scope of review is plenary." Mazur v. Trinity Area Sch. Dist., 599 Pa. 232, 240, 961 A.2d 96, 101 (2008).

"The scope of review of this Court's review of an in forma pauperis application by the trial court is limited to a determination of whether constitutional rights were violated, or whether the trial court abused its discretion or committed an error of law." Thomas v. Holtz, 707 A.2d 569, 570 n.2 (Pa. Cmwlth. 1998).

Section 6602(e) of the PLRA defines an inmate's substantive right to file prison conditions litigation by setting forth the circumstances under which prison litigation shall be summarily denied. Payne v. Dep't of Corr., 582 Pa. 375, 871 A.2d 795 (2005). Under Section 6602(e), a trial court shall dismiss prison conditions litigation, at any time, if the litigation is frivolous, malicious, fails to state a claim upon which relief can be granted, or the defendant is entitled to an affirmative defense which if asserted would preclude relief. Id.; Brown v. Dep't of Corr., 913 A.2d 301 (Pa. Cmwlth. 2006). A trial court may deem an action frivolous if the action lacks an arguable basis in either fact or law. See Bennett v. Beard, 919 A.2d 365 (Pa. Cmwlth. 2007).

A writ of mandamus is an extraordinary remedy and is only issued when there is a clear right in the plaintiff, a corresponding duty of the defendant, and a lack of any other adequate remedy. Pa. Dental Ass'n. v. Ins. Dep't, 512 Pa. 217, 516 A.2d 647 (1986). In Brown, this Court held the PLRA statutory scheme is the appropriate means of relief for an inmate petitioning the court, by writ of mandamus or otherwise, to remedy a violation of state or federal law.

However, under the PLRA, a trial court's jurisdiction does not extend to matters related to inmate grievance or disciplinary hearings and appeals. Where no violation of constitutional rights is alleged, intra-prison disciplinary determinations are matters of prison administration and are peculiarly within the province of the legislative and executive branches, not the judiciary.[3] Bronson v.

[3] In his complaint, Robinson does not expressly allege a constitutional violation. To the extent due process concerns can be inferred, they are without merit. The United States Supreme
(Footnote continued on next page…)

Cent. Office Review Comm., 554 Pa. 317, 721 A.2d 357 (1998); Robinson v. Biester, 420 A.2d 9 (Pa. Cmwlth. 1980). As such, DOC adjudications related to charges of misconduct by an inmate are beyond the original or appellate jurisdiction of either this Court or the courts of common pleas. Bronson; Brown; Robinson.

Here, while Robinson fashioned his pleading as a complaint in mandamus, it is properly construed as prison conditions litigation as defined by Section 6601 of the PLRA. See Brown. However, in his petition, Robinson does not allege a violation of state or federal law; rather, he asks the trial court to intervene in DOC's administration of its internal operations. As the judiciary does not possess authority over DOC's internal disciplinary proceedings where no violation of state or federal law is alleged, Robinson's action is frivolous under Section 6602(e). Bronson; Brown; Robinson. Therefore, the trial court did not err in dismissing Robinson's complaint and IFP application. Lastly, because Robinson's action is frivolous, this dismissal is to be counted as a "strike" under Section 6602(f). See Bailey v. Miller, 943 A.2d 1007 (Pa. Cmwlth. 2008).

(continued…)

Court holds an inmate's rights under the Fourteenth Amendment of the United States Constitution are not violated if an adequate post-deprivation remedy exists. See Hudson v. Palmer, 468 U.S. 517 (1984). In conjunction, the Third Circuit recently affirmed that DOC's grievance procedure provides an adequate post-deprivation remedy. Maulsby v. Beard, 223 F. App'x 192 (3rd Cir. 2007); see also Luckett v. Blaine, 850 A.2d 811 (Pa. Cmwlth. 2004) (DOC's violation of its own administrative procedure does not implicate constitutional rights under the United States or Pennsylvania Constitutions). Therefore, any contention that jurisdiction is proper and grounded in a constitutional question, based on procedural due process, is meritless.

In short, the trial court lacks jurisdiction over DOC's inmate misconduct proceedings; therefore, the dismissal of Robinson's entire action was proper.[4] Accordingly, we affirm.

ROBERT SIMPSON, Judge

[4] We may affirm on different grounds where alternative grounds for affirmance exist. City of Pittsburgh v. Logan, 780 A.2d 870 (Pa. Cmwlth. 2001), aff'd, 570 Pa. 500, 810 A.2d 1115 (2002).

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O R D E R

AND NOW, this 3rd day of October, 2011, the order of Court of Common Pleas of Centre County is **AFFIRMED**.

ROBERT SIMPSON, Judge