

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Mark Anthony Robinson,	:
Appellant	:
	:
v.	: No. 505 C.D. 2011
	: Submitted: August 19, 2011
Office of the 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 Anthony 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 November 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.

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 complaint, Robinson did not qualify for IFP status. In a supporting opinion, the trial court explained that it lacked jurisdiction over DOC's disciplinary procedures, 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, 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.

We considered Robinson's identical contentions in the appeal in the companion case of Robinson v. MacIntyre, (Pa. Cmwlth., No. 487 C.D. 2011, filed October 3, 2011). In Robinson v. MacIntyre, we determined Robinson's action constituted prison conditions litigation under the PLRA. See § 6601. Next, we observed that under the PLRA, where no constitutional violation is alleged, a trial court's jurisdiction does not extend to matters related to inmate disciplinary hearings and appeals. See Bronson v. Cent. Office Review Comm., 554 Pa. 317, 721 A.2d 357 (1998). Since Robinson did not raise a constitutional claim, but rather, asked the trial court to intervene in a DOC inmate misconduct proceeding,

we concluded the trial court did not have jurisdiction over the subject matter of Robinson's suit. Because the trial court lacked jurisdiction, we determined the action was frivolous and properly dismissed by the trial court. See § 6602(e). Accordingly, we affirmed the order of the trial court dismissing Robinson's entire action.

Here, for the reasons discussed at length in Robinson v. MacIntyre, we hold the trial court lacks jurisdiction over DOC's inmate misconduct proceedings; therefore, the dismissal of Robinson's entire action was proper. Just as in the companion case, this dismissal is to be counted as a "strike" under Section 6602(f). See Bailey v. Miller, 943 A.2d 1007 (Pa. Cmwlth. 2008). Accordingly, we affirm.¹

ROBERT SIMPSON, Judge

¹ We may affirm on different grounds where 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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ORDER

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

ROBERT SIMPSON, Judge