

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Melvin Lindsey,	:	
	:	
Appellant	:	
	:	
v.	:	
	:	No. 771 C.D. 2009
	:	Submitted: September 25, 2009
Pennsylvania Department of Corrections ,	:	
Jeffery A. Beard, Secretary, John Kerestes,	:	
Superintendent-SCI-Mahanoy, Cynthia	:	
Gregory, Activities Supervisor and	:	
Residents Betterment Organization,	:	
Charles Ravina, RBO-Advisor, Gregory	:	
Womack, President, Erick Churchwell,	:	
Vice-President, All together	:	
Individually and Jointly and in their	:	
Official Capacity	:	

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE JAMES R. KELLEY, Senior Judge
HONORABLE KEITH B. QUIGLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE QUIGLEY

FILED: December 17, 2009

Melvin Lindsey (Lindsey) appeals from the April 7, 2009 order of the Court of Common Pleas of Schuylkill County, which dismissed as frivolous Lindsey’s complaint against the Pennsylvania Department of Corrections (Department); Jeffery A. Beard, Secretary; John Kerestes, Superintendent of the State Correctional Institution at Mahanoy (SCI-Mahanoy); Cynthia Gregory, Activities Supervisor; the Residents Betterment Organization (RBO); Charles

Ravina, RBO Advisor; Gregory Womack, RBO President; and Erik Churchwell, RBO Vice-President (collectively, Appellees).¹ We affirm.

Lindsey, an inmate at SCI-Mahanoy, requested permission to attend the RBO 2008 senior member banquet. Lindsey was placed on a waiting list but, ultimately, did not attend. Lindsey filed a grievance regarding the matter.

Lindsey was running for President of the RBO for 2009. When Gregory Womack was nominated for the office, Lindsey challenged Womack's nomination, alleging that he was not nominated in accordance with the RBO by-laws. However, a grievance officer ruled that Womack's nomination complied with the by-laws. Lindsey lost the election.

Lindsey filed a petition for review with this court, alleging that the Appellees discriminated against him based on his age and religion. Lindsey sought monetary damages of \$175,000. This court transferred the matter to the trial court, which dismissed the action as frivolous.

Lindsey now appeals to this court, arguing that the trial court erred in dismissing his appeal as frivolous. We disagree.

The comment to Pa. R.C.P. No. 240(j) states that a frivolous action has been defined as one that lacks an arguable basis in law or in fact. As for the claim of age discrimination, Lindsey does not indicate his age in his complaint. Thus, there is no basis in fact for Lindsey's claim of age discrimination.

As for the claim of discrimination based on religion, Lindsey avers that he adheres to the Islamic faith and that the Appellees are Christian. However, to properly state a discrimination claim based on intentional disparate treatment, a

¹ Under Pa. R.C.P. No. 240(j), if a party commencing an action has simultaneously filed a petition for leave to proceed in forma pauperis, the court may dismiss the action if it is satisfied that the action is frivolous.

plaintiff must make specific factual allegations. *Myers v. Ridge*, 712 A.2d 791 (Pa. Cmwlth. 1998). Conclusory statements of constitutional violations are insufficient. *Id.* Here, Lindsey simply asserts that Appellees conspired to discriminate against him based on his religion. Thus, there is no sufficient basis in fact for Lindsey's claim of discrimination based on religion.

Accordingly, we affirm.

KEITH B. QUIGLEY, Senior Judge

Senior Judge Kelley concurs in the result only.

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ORDER

AND NOW, this 17th day of December, 2009, the order of the Court of Common Pleas of Schuylkill County, dated April 7, 2009, is hereby affirmed.

KEITH B. QUIGLEY, Senior Judge