

IN THE UTAH COURT OF APPEALS

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Lawrence M. Jackson,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20051053-CA
v.)	
)	F I L E D
State of Utah,)	(February 16, 2006)
)	
Respondent and Appellee.)	2006 UT App 51

Sixth District, Manti Department, 050600333
The Honorable Wallace A. Lee

Attorneys: Lawrence M. Jackson, Gunnison, Appellant Pro Se

Before Judges Greenwood, McHugh, and Orme.

PER CURIAM:

Lawrence M. Jackson appeals the district court's summary dismissal of his petition for extraordinary relief.

Because this appeal involves the district court's interpretation of rule 65B(b)(5) of the Utah Rules of Civil Procedure, which allows the district court to dismiss petitions that are frivolous on their face, the appeal raises a question of law that is reviewed for correctness. See Alvarez v. Galetka, 933 P.2d 987, 989 (Utah 1997). Jackson raised several issues in his petition for extraordinary relief. With the exception of one issue, it appears that all of Jackson's claims relate to prison disciplinary actions and Jackson's belief that he was treated unfairly in regard to these actions.

The Department of Corrections is afforded great deference in internal discipline and matters of institutional security. See Dunn v. White, 880 F.2d 1188, 1191 (10th Cir. 1989). Based upon this level of deference, we agree with the district court that Jackson has failed to state a claim for which relief can be granted, except with respect to his claims about deprivation of medically necessary food and confiscation of his legal papers. Jackson states nonfrivolous claims concerning these matters that necessitate a response from the State. With the exception of these two issues, the facts as alleged in Jackson's petition do

not demonstrate that the Department of Corrections abused or exceeded its discretion in making the initial disciplinary decisions or in the administrative appellate process that followed those decisions. Accordingly, with the exception of the two causes of action noted above, because Jackson has failed to allege sufficient facts that, if true, would demonstrate that the Department of Corrections abused or exceeded its broad discretion, the district court properly dismissed Jackson's petition.

Jackson's only other claim relates to the Department of Corrections charging Jackson's prison account for a DNA test. In reviewing this claim, Jackson has alleged insufficient facts to demonstrate that the Department of Corrections exceeded its authority in requiring Jackson to pay for the test. Therefore, the district court correctly dismissed this claim as well.

Reversed and remanded for further proceedings as noted; the district court's decision is otherwise affirmed.

Pamela T. Greenwood,
Associate Presiding Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge