COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
CIVIL ACTION - LAW

DEMETRIUS BAILEY, et al, : No. S-1429-2001
Plaintiffs :
v. :
:
JOSEPH CHESNEY,
Defendant :

JUN 28 2 49 PM '02

ORDER OF COURT

STINE, J.

AND NOW, this 28th day of June, 2002, upon consideration of Plaintiffs' Petition for Review, Defendant's Preliminary Objections in the nature of a demurrer and Memorandum of Law in support thereof, and Plaintiffs' response thereto, it is hereby ORDERED that Defendant's Preliminary Objections are GRANTED and the Plaintiffs' Petition for Review is DISMISSED WITH PREJUDICE.[1]

BY THE COURT:

_____, J.

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[1] A preliminary objection in the nature of a demurrer admits every well-pleaded fact in the complaint and all inferences reasonably deducible therefrom. **Composition Roofers Local 30/30B v Katz**, 398 Pa. Super. 564, 581 A.2d 607 (1990). A preliminary objection in the nature of a demurrer tests the legal sufficiency of the complaint. **Smith v. Wagner**, 403 Pa. Super. 316, 588 A.2d 1308 (1991). When sustaining a preliminary objection that would result in the dismissal of an action, the objection should be sustained only in cases that are free from doubt. **Engle v. Engle**, 412 Pa. Super. 425, 603 A.2d 654 (1992). Where any doubt exists as to whether a demurrer should be sustained, it should be resolved in favor of overruling the demurrer. **Jackson v. Garland**, 424 Pa. Super. 378, 622 A.2d 969 (1993).

Here, the Plaintiffs are several state inmates whose allegations include fabricated misconduct, retaliatory transfers, denial of access to the courts, lack of adequate medical treatment and confiscation of personal property. The Court finds that the Plaintiffs' Petition fails to state any causes of action and that there is no justiciable issue before the Court. Furthermore, we adopt the legal reasoning of the Defendant as stated in his Memorandum of Law in Support of the Preliminary Objections to Petition for Review.