

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Keith Bartelli, :
 :
 Petitioner :
 :
 v. : No. 355 M.D. 2012
 :
 Pennsylvania Department of :
 Corrections, Marirosa Lamas, et al., :
 Respondents :

PER CURIAM

ORDER

NOW, this 27th day of February, 2013, upon consideration of Respondents' motion to dismiss pursuant to Section 6602 of the Prison Litigation Reform Act (PLRA), 42 Pa. C.S. § 6602, Petitioner's answer thereto, and the briefs of the parties, it is hereby ordered that Respondent's motion to dismiss is GRANTED and Petitioner's petition for review is DIMISSED with prejudice, because Petitioner previously filed six civil actions concerning prison conditions, all of which were dismissed pursuant to Section 6602(e)(2) of the PLRA.¹ See *Bartelli v. Grace*, 1992 C.D. 2008 (Pa. Cmwlth., filed May 28, 2009).

¹ Section 6602(f) of the PLRA, relating to abusive litigation and "commonly referred to as the 'three strikes rule,'" allows a court to dismiss a prisoner's prison conditions complaint where the prisoner has had three or more prior civil actions pertaining to prison conditions dismissed pursuant to Section 6602(e) of the PLRA. See *Corliss v. Varner*, 934 A.2d 748, 750 (Pa. Cmwlth. 2007), *petition for allowance of appeal denied*, 596 Pa. 748, 946 A.2d 689 (2008). Section 6602(e)(2) of the PLRA, dismissal of litigation, directs a court to dismiss prison condition litigation if the court determines that the litigation is frivolous, malicious or fails to state a claim on which relief could be granted or if the defendant is entitled to assert a valid affirmative defense. A court shall not "dismiss a request for preliminary injunctive relief or a temporary restraining order which makes a credible allegation that the prisoner is in imminent danger of serious bodily harm." Section 6602(f) of the PLRA. Here, Petitioner's prison condition litigation does not meet the criteria for an exception to the "three strikes rule" as set forth in Section 6602(f) of the PLRA.

Certified from the Record

FEB 28 2013

And Order Exit