

GEORGE S. BUSSINGER,
Plaintiff,

v.

JEFFREY A. BEARD and PA
DEPARTMENT OF CORRECTIONS,
Defendants.

IN THE COURT OF COMMON
PLEAS OF SOMERSET COUNTY,
PENNSYLVANIA

NO. 597 CIVIL 2008

For Plaintiff: Pro Se
For Defendants: SCI Somerset

2008 JUN 26 AM 11:23
ALICE STORANEC
PROTHONOTARY
SOMERSET, PA

MEMORANDUM AND ORDER DENYING IFP STATUS

We have before the court a petition and affidavit for approval of an *In Forma Pauperis* status of George Bussinger, an inmate at the State Correctional Institution in Somerset. With his petition Mr. Bussinger has forwarded a civil complaint that we reviewed in conjunction with the request for IFP status. For the reasons set forth hereinafter, the petition is denied.

The gist of the complaint is that the DOC policy on digital converter boxes is that inmates will not be allowed to purchase such boxes because they are not "clear". We gather from the complaint that the context of "clear" is that such devices are not deemed suitable for distribution to the inmates because of their component makeup. The Department of Corrections policy is that inmates will either be required to subscribe to the table network in the prison or purchase new televisions. In this case, petitioner alleges that he purchased his television with the intention of never having to purchase cable services. He alleges further that there was an implied contract that if he purchased a television from the DOC he would be able to purchase the necessary accessories that would enable him to watch it.

DEPARTMENT OF CORRECTIONS
SCI - SOMERSET

JUN 27 2008

HEIDI SROKA, SUPT'S ASST.

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correct copy of an original
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this office.
Alice Storanec
Prothonotary

We find that the suggested cause of action amounts to prison conditions litigation as defined in Section 6601 of the Prison Litigation Reform Act [PLRA], 42 Pa.C.S.A. §6601. Such litigation is defined as a civil proceeding arising in whole or in part under federal or state law with respect to the conditions of confinement or the effects of actions by a government party on the life of an individual in prison. *Id.* The PLRA directs that the court shall dismiss prison conditions litigation at any time, including prior to service on the defendant, if the prison conditions litigation is frivolous or malicious or fails to state a claim upon which relief may be granted or the defendant is entitled to assert a valid affirmative defense which, if asserted, would preclude relief. 42 Pa.C.S.A. §6602(e). One such affirmative defense is the bar to court action for failure to exhaust administrative remedies. *St. Clair v. Board of Probation and Parole*, 493 A.2d 146 (Pa.Cmwth.1985), *Humphrey v. DOC*, 939 A.2d 987 (Pa.Cmwth.2007). The inmate grievance system set forth in DC-ADM 804, a policy statement of the Department of Corrections, establishes a procedure whereby inmates are encouraged to first bring their concerns regarding prison conditions to a grievance officer followed by two levels of appeal.

Petitioner has failed to satisfy the court that he has exhausted the remedies provided him under the Department of Corrections administrative procedures. Accordingly, pursuant to §6602(e) of the PLRA the petition for in forma pauperis status is denied. We enter the following order.

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NO. _____ CIVIL 2008

ORDER

AND NOW, this 26th day of June, 2008 consistent with the foregoing memorandum,
the petition for in forma pauperis status is DENIED.

BY THE COURT:



David C. Klementik, J.

GEORGE S. BUSSINGER,
Plaintiff,

v.

JEFFREY A. BEARD, et al.,
Defendants.

IN THE COURT OF COMMON
PLEAS OF SOMERSET COUNTY,
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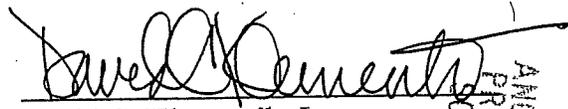
NO. 597 CIVIL 2008

For Plaintiff: Pro Se
For Defendants: SCI Somerset

ORDER

AND NOW, this 3rd day of July, 2008, upon review of the letter-request for reconsideration of the court order of June 26, 2008 denying an *In Forma Pauperis* petition for failure to exhaust administrative remedies, and upon reconsideration and review of the basis for our underlying opinion, the order of June 26, 2008 is AFFIRMED and reconsideration is DENIED.

BY THE COURT:

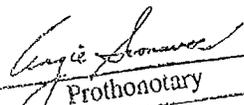

David C. Klementik, J.

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ANGIE SVONAVEC
PROTHONOTARY
SOMERSET, PA

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JUL 09 2008

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HEIDI SROKA, SUPT'S ASST.

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Prothonotary