

MS

7

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED

RICHARD CARTER
CORNELL VINSON

CIVIL ACTION

v.

C.O.II LOPES
C.O.I BAIR

APR 8 1993
MICHAEL E. KUNZ, Clerk
Dep. Clerk
By _____

NO. 93-0414

MEMORANDUM

SHAPIRO, J.

April 5th, 1993

Plaintiffs were given leave to file an amended complaint by Order of this Court dated March 3, 1993. In their amended complaint, plaintiffs were to provide more information about their property claims and their misconduct charges.

Plaintiffs allege that they filed this civil action immediately after their property was either lost or mistreated. They state that after they filed this civil action they made efforts to resolve this problem with the defendants. They further allege that they have not availed themselves of the prison grievance procedures because the prison grievance system is ineffective. Since the prison has a grievance procedure and Pennsylvania has a tort claim statute which appears to apply to property claims, a §1983 action is not appropriate. See 42 Pa. C.S.A. §8550; Jones v. Waters, 570 F.Supp. 1292, 1298 (E.D. Pa. 1983). Therefore, plaintiffs' property claims will be dismissed as frivolous pursuant to 28 U.S.C. §1915(d).

Plaintiffs' claims regarding false misconduct charges will also be dismissed. Although plaintiffs allege that they were given false misconduct charges, they received notice of the

8

charges against them and a hearing on those charges.

Accordingly, their constitutional rights have not been violated.

Freeman v. Rideout, 808 F. 2d 949 (2d Cir. 1986).

For the foregoing reasons, the complaint and amended complaint will be dismissed as frivolous pursuant to 28 U.S.C. §1915(d).

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED

RICHARD CARTER
CORNELL VINSON

v.

C.O.II LOPES
C.O.I BAIR

APR 8 1993 :
MICHAEL E. KUNZ, Clerk :
By [Signature] Dep. Clerk :

CIVIL ACTION

NO. 93-0414

O R D E R

AND NOW, this 12 day of April, 1993,
in accordance with the Memorandum filed this date,

IT IS ORDERED that:

The complaint and amended complaint are DISMISSED as
frivolous pursuant to 28 U.S.C. §1915(d).

[Signature]
NORMA L. SHAPIRO, J.

4-9-93
COP to
P. P.
(Copies)
Legal