

him, removing of the misconduct citation and conviction from his records, and enjoining respondent from using the misconduct in any determination or decision.

In addition to filing preliminary objections, respondent has filed a motion to revoke petitioner's in forma pauperis status and dismiss the petition for review as abusive litigation pursuant to 42 Pa. C.S. §6602(f)(1) because he has had at least three prior civil actions dismissed as frivolous pursuant to 42 Pa. C.S. §6602(e)(2). Because we agree with respondent that petitioner's petition for review in this case is frivolous, not to mention that this matter seeks the same relief and is premised on the same facts as the action this court dismissed at No. 268 M.D. 2006, Garland v. Department of Corrections, on May 1, 2006, respondent's motion is granted.

As the Court stated in that earlier memorandum and order, a challenge in our original jurisdiction to a Department of Corrections decision concerning charges of misconduct issued against petitioner is outside our jurisdiction. Edmunson v. Horn, 694 A.2d 1179 (Pa. Cmwlth. 1997); Ricketts v. Central Office Review Committee, 557 A.2d 1180 (Pa. Cmwlth 1989), petition for allowance of appeal denied, 524 Pa. 636, 574 A.2d 75 (1989). Petitioner does not allege any facts that would entitle him to relief. Accordingly, we conclude that petitioner's litigation is frivolous under Section 6602(e)(2) of the PLRA, 42 Pa. C.S. §6602(e)(2), lacking any basis in law or fact. See Pa. R.C.P. No. 240(j).

ORDER

NOW, May 25, 2006, the petition for review is dismissed. Respondent's preliminary objections and petitioner's application for extension of time and application for permission to file one original are dismissed as moot.