

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Kendall Garland, :
Petitioner :
v. :
Department of Corrections, :
Ms. V. Henry, Mr. D.B. Perry, :
and Lt. Malinich, :
Respondents : No. 268 M.D. 2006

Certified from the Record

MAY - 2 2006

PER CURIAM

MEMORANDUM and ORDER

and Order Ext

Petitioner, Kendall Gardland, seeks in forma pauperis status in a case falling within the purview of the Prison Litigation Reform Act, (PLRA) 42 Pa. C.S. §§6601-6608. He alleges in his mandamus petition that the he was placed on cell restriction for 5 days from April 19 to 23, 2004 as a misconduct sanction and that thereafter he was not immediately scheduled for the law library and was prevented from obtaining paper supplies until April 27, 2004. He alleges that respondents either deliberately or negligently denied him access to the courts and seeks declaratory relief.

Initially we note that 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. Cmwlt. 1997); Ricketts v. Central Office Review Committee, 557 A.2d 1180 (Pa. Cmwlt. 1989), petition for allowance of appeal denied, 524 Pa. 636, 574 A.2d 75 (1989).

As for petitioner's allegation that respondents' conduct prevented from filing an amendment to a petition files in the Pennsylvania Supreme Court at No. 75 E.M. 2003, the docket for that case reflects that the petition was filed in June 2003 and that petitioner filed nothing further; the petition was denied on April 27, 2004. Accordingly, we conclude that petitioner's litigation is frivolous under Section 6602(e)(2) of the PLRA, 42 Pa. C.S. §6602(e)(2).

ORDER

NOW, May 1, 2006, the petition for review is dismissed.