

diagnosed and presumably is being treated for a condition known as Benign Prostatic Hypertrophy (B.H.P.). According to him, the condition affects his ability to produce urine samples within two (2) hours when requested to do so by the Department of Corrections (DOC). Because he frequently failed to produce a timely urine sample, Mr. Lambert was disciplined for "refusing to obey an order". In 2003 and 2004 he received eight (8) misconducts and spent fifteen (15) months in the Restrictive Housing Unit (RHU) on account of his inability to produce a timely sample. Also, he lost his job and he also lost the privilege of contact visits. As corroboration of his assertion that he could not produce a urine sample within two hours, Mr. Lambert set forth in his petition that in 2004 the new medical director at SCIH -- Dr. Olga Beregovskaga -- granted to him an extra two hours to produce a sample. Thus, in 2005, he was required to provide samples on January 3, February 19, May 13, May 17 and August 2. He was able to do so because of the extra two hours. Also, he alleged that on the one occasion (May 11, 2005) when he failed to produce a sample, the misconduct was dismissed for medical reasons. Finally, Mr. Lambert alleged in his petition that he appealed to Superintendent Grace "to correct the injustice" and "to end the cruel and unusual punishment" and to restore his "rights and privileges"

including his job and contact visits. He also asked that DOC desist from urine testing him.

Mr. Grace took no action, as a consequence of which Mr. Lambert filed this petition in the Commonwealth Court of Pennsylvania. That court transferred the matter to this Court by order dated October 19, 2005.

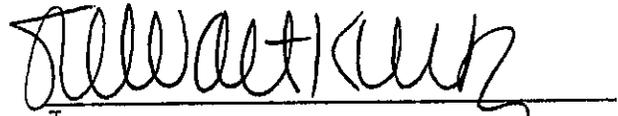
By way of relief, Mr. Lambert asks for an order eliminating altogether any time limit for the production of a urine sample or, alternatively, directing a different method of drug testing. Also, he wants his job restored with back pay and restoration of contact visits.

Discussion

Mr. Lambert, alike many of his peers, obviously believes that the judiciary in Pennsylvania is empowered to micromanage DOC, and to make right every perceived wrong presented by prisoners. That belief however is ill-founded. This Court can act only when rights guaranteed under the United States and Pennsylvania Constitutions are involved. In this regard, inmates have neither a constitutional right to visitation with their families (See Neumeyer v. Beard,

301 F.Supp.2d 349, 351, 352 (M.D.Pa. 2004), nor a right to keep a particular job. Bryan v. Werner, 516 F.2d 233, 240 (3d.cir. 1975). Finally, DOC policy and procedure relative to drug testing is not a matter that rises to the level of a constitutional right, but rather is an issue of prison management. In short, Mr. Lambert's contentions do not involve issues of constitutional rights. Therefore, they fail to state a claim upon which relief can be granted. Accordingly, we will sustain the preliminary objection.

BY THE COURT,


J.

DATED: January 23, 2006



