

IN THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
CIVIL ACTION – LAW

PETER JAMES RACKLEY, : No. S-1570-2003
Plaintiff :
v. :
MS. CINDY KOZAR, :
Defendant :

PROthonotary's
OFFICE
SCHUYLKILL COUNTY PA
17901
2003 OCT 15 A 10: 21

ORDER OF COURT

STINE, J.

AND NOW, this 14th day of October, 2003, upon consideration of the Plaintiff's Motion to Proceed In Forma Pauperis in this civil action, it is hereby ORDERED that the said Motion is DENIED and the action is DISMISSED with prejudice.¹

BY THE COURT:


_____, J.

¹ Pa.R.C.P. 240(j) provides: "If, simultaneous with the commencement of an action or proceeding or the taking of an appeal, a party has filed a petition for leave to proceed in forma pauperis, the court prior to acting upon the petition may dismiss the action... if it is satisfied that the action... is frivolous. A frivolous action has been defined as one that "lacks an arguable basis either in law or in fact." Neizke v. Williams, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1990).

Here, the Plaintiff is incarcerated in SCI-Frackville and has brought this action alleging that his due process rights are being violated because the Defendant, the records keeper of the prison, will not remove documents from his prison file, which documents were made by the prison counselor and were the basis of the Plaintiff's being reclassified as a "Medium Supervision" prisoner rather than a "Minimum Supervision" prisoner. The Plaintiff's allegations are frivolous as they have no basis in law. The Court of Common Pleas is not the proper venue to address matters of prison administration. Therefore, this action must be dismissed.