

N/A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Mark Wallace,

Petitioner

v.

Warden James Wynder, SCI
Department of Corrections et al.,

Respondents

No. 116 M.D. 2005

PER CURIAM

ORDER

Now, May 13, 2005, upon consideration of respondents' preliminary objection in the nature of a demurrer and petitioner's response, the demurrer is sustained, and the petition for review is dismissed.

Petitioner alleges that a dentist at SCI-Graterford broke his tooth while repairing an adjacent tooth, that he refused to permit a dentist at SCI-Dallas to pull the broken tooth, and that respondents refuse to repair the tooth to his satisfaction. Petitioner requests an order directing respondents to schedule him an appointment with an outside dentist or orthodontist. An inmate may not use mandamus to compel a discretionary act, i.e., his personal choice of dental treatment; he acknowledges that he was provided with medical treatment and refused the offered treatment. Kretchmar v. Department of Corrections, 831 A.2d 793 (Pa. Cmwlth. 2003). Petitioner's allegations are insufficient to state a claim for deliberate indifference to a serious medical need or denial of access to medical treat. Kretchmar.

Petitioner's motion to amend caption is dismissed as moot.

Certified from the Record

MAY 16 2005

and Order Exit

Handwritten notes and stamps, including a date stamp "MAY 13 2005" and a signature "J. J. YAM".