

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jay V. Yunik, :  
 :  
 Petitioner :  
 :  
 :  
 v. :  
 :  
 Commonwealth of Pennsylvania, :  
 Department of Corrections, :  
 Respondent : No. 105 M.D. 2009

**PER CURIAM**

**ORDER**

Now, May 12, 2009, upon consideration of respondent's preliminary objections, the objections are sustained, and the petition for review is dismissed.

Petitioner avers that he told his counselor that "there would be repercussions if he was denied parole this time by way of litigation." (PFR para. 16.) He subsequently received a misconduct for threatening another person resulting in a change in his custody status and loss of his inmate employment. Petitioner disputes that his statement was a threat, and avers that respondent violated his right to free speech. He requests reversal and expungement of the misconduct, restoration of his former custody level, reinstatement to his inmate employment, and an order directing respondent to desist from future harassment and retaliation.

To the extent that petitioner seeks reversal of his misconduct, misconduct decisions are not subject to judicial review in a case not involving a constitutional right not limited by the Department of Corrections. Weaver v. Department of Corrections, 829 A.2d 750 (Pa. Cmwlth. 2003); Ricketts v. Central Office Review Committee, 557 A.2d 1180 (Pa. Cmwlth. 1989). Moreover, petitioner does not dispute that he made the statement that resulted in the misconduct.

The decision as to what prison an inmate is housed in is within the discretion of corrections officials and generally does not implicate a liberty interest. Wilkinson v. Austin, 545 U.S. 209 (2005); Olim v. Wakinekona, 461 U.S. 238 (1983); Meachum v. Fano, 427 U.S. 215 (1976); Singleton v. Lavan, 834 A.2d 672 (Pa. Cmwlth. 2003). An inmate has no constitutionally protected interest in remaining in prison general population or an institutional job placement. Miles v. Wisor, 847 A.2d 237 (Pa. Cmwlth. 2004); Brown v. Blaine, 833 A.2d 1166 (Pa. Cmwlth. 2003); Wei Chem v. Horn, 725 A.2d 226 (Pa. Cmwlth. 1999).



**Certified from the Record**  
**MAY 13 2009**  
**and Order Exit**