

Ms Seoka

GEORGE S. BUSSINGER,  
Plaintiff,

IN THE COURT OF COMMON  
PLEAS OF SOMERSET COUNTY,  
PENNSYLVANIA

v.

JEFFREY A. BEARD and GERALD L.  
ROZUM and PA DEPARTMENT OF  
CORRECTIONS,  
Defendants.

NO. 598 CIVIL 2008

RECEIVED  
JUL 17 2008

For Plaintiff: Pro Se  
For Defendants: SCI Somerset

**MEMORANDUM AND ORDER DENYING IFP STATUS**

We have before the court a petition and affidavit for approval of an *In Forma Pauperis* status of George Bussinger, an inmate at the State Correctional Institution in Somerset. With his petition Mr. Bussinger has forwarded a civil complaint that we reviewed in conjunction with the request for IFP status. For the reasons set forth hereinafter, the petition is denied.

The gist of the complaint is that a check mailed to Plaintiff-Bussinger by the Internal Revenue Service at SCI Somerset was confiscated by the staff. Plaintiff alleges that the mailroom staff has been instructed, illegally, to withhold anything for an inmate that is sent by the IRS. He claims that the defendants are not allowed to censure mail from the IRS and that their actions are prohibiting the plaintiff from purchasing materials needed for pending legal matters as well as being able to telephone family and friends. Plaintiff requests that the court issue a declaration that the defendants are violating the state and federal constitutions and that we enjoin them from such conduct in the future. He further demands judgment against any non-immune defendant for compensation in the amount of the funds that were confiscated, and punitive damages.

DEPARTMENT OF CORRECTIONS  
SCI - SOMERSET

correct copy of the original  
Document on file in  
this office.  
*[Signature]*

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MELISSA SROKA, SUPT'S ASST.

We find that the suggested cause of action amounts to prison conditions litigation as defined in Section 6601 of the Prison Litigation Reform Act [PLRA], 42 Pa.C.S.A. §6601. Such litigation is defined as a civil proceeding arising in whole or in part under federal or state law with respect to the conditions of confinement or the effects of actions by a government party on the life of an individual in prison. *Id.* The PLRA directs that the court shall dismiss prison conditions litigation at any time, including prior to service on the defendant, if the prison conditions litigation is frivolous or malicious or fails to state a claim upon which relief may be granted or the defendant is entitled to assert a valid affirmative defense which, if asserted, would preclude relief. 42 Pa.C.S.A §6602(e). One such affirmative defense is the bar to court action for failure to exhaust administrative remedies. *St. Clair v. Board of Probation and Parole*, 493 A.2d 146 (Pa.Cmwlth.1985), *Humphrey v. DOC*, 939 A.2d 987 (Pa.Cmwlth.2007). The inmate grievance system set forth in DC-ADM 804, a policy statement of the Department of Corrections, establishes a procedure whereby inmates are encouraged to first bring their concerns regarding prison conditions to a grievance officer followed by two levels of appeal.

Petitioner has failed to satisfy the court that he has exhausted the remedies provided him under the Department of Corrections administrative procedures. Accordingly, pursuant to §6602(e) of the PLRA the petition for in forma pauperis status is denied. We enter the following order.

