

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Ronald Stockton, :  
Appellant :  
v. : No. 29 C.D. 2011  
Lt. Vance, Hearing Examiner : Submitted: June 17, 2011  
D. Kuhn, Superintendent :  
Mortmosa Lamas, Deputy :  
B. Thompson, Deputy Robert :  
Marsh, C.C.P. M. T. Miller, :  
Chief Hearing Examiner :  
Robert B. MacIntyre :

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge  
HONORABLE MARY HANNAH LEAVITT, Judge  
HONORABLE JAMES R. KELLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY SENIOR JUDGE KELLEY

FILED: August 12, 2011

Ronald Stockton appeals *pro se* from the December 17, 2010, order of the Court of Common Pleas of Centre County (trial court) dismissing his petition for review pursuant to Section 6602 of what is commonly referred to as the Prison Litigation Reform Act (PLRA), 42 Pa.C.S. §6602. We affirm.

Stockton is an inmate currently housed at the State Correctional Institution at Rockview. On September 13, 2010, Stockton filed a petition to proceed in forma pauperis and a petition for review against Lt. Vance, D. Kuhn (Hearing Examiner), Mortmosa Lamas (Superintendent), B. Thompson (Deputy),

Robert Marsh (Deputy), and T. Miller (C.C.P.M.), and Robert B. MacIntyre (Chief Hearing Examiner) (hereinafter collectively referred to as "Respondents"). Therein, Stockton alleged that he received notice on June 4, 2010, that he was being placed in administrative custody for investigative purposes. Stockton alleged that an inmate is supposed to be placed in administrative custody for investigative purposes for only fifteen days; however, he received a misconduct on June 24, 2010, after reporting to the program review committee that he had not received proper notification of the extension of his administrative custody status beyond fifteen days. Stockton alleged that Respondents violated certain policies and procedures and his rights to due process under the United States Constitution by not notifying him of an extension of his administrative custody or a misconduct. Stockton requested that the trial court dismiss his misconduct and expunge his record.

Stockton's request to proceed *in forma pauperis* was granted by the trial court on October 7, 2010. On December 17, 2010, a hearing was held concerning Stockton's petition for review. Stockton stated during the hearing that Respondents violated their own written policy and his right to due process by keeping him in administrative custody status for more than fifteen days without providing him with documentation of an extension. Stockton contended further that after he brought the foregoing violations to the attention of the program review committee, he was issued a misconduct on June 29, 2010.<sup>1</sup> Stockton requested that the trial court dismiss the misconduct.

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<sup>1</sup> As noted by the trial court, while Stockton states in his petition for review that he received a misconduct on June 24, 2010, he contended at the December 17, 2010, hearing that he received the misconduct on June 29, 2010. The discrepancy in the dates however has no bearing on the disposition of Stockton's appeal.

In response, counsel for Respondents moved for dismissal of Stockton's petition for review pursuant to Section 6602(e) of the PLRA for three reasons: (1) the trial court lacked jurisdiction pursuant to Brown v. Department of Corrections, 913 A.2d 301 (Pa. Cmwlth. 2006), petition for allowance of appeal denied, 591 Pa. 705, 918 A.2d 748 (2007); (2) Stockton failed to exhaust his administrative remedies; and (3) Stockton lacks a liberty interest and due process does not apply. Upon review, the trial court granted Respondents' motion to dismiss Stockton's petition for review pursuant to the PLRA by order of December 17, 2010. On December 28, 2010, Stockton filed a motion for clarification with the trial court which the court denied by order of January 20, 2011.

Stockton filed a notice of appeal with this Court on January 6, 2011, and he was granted *in forma pauperis* status. By order of January 19, 2011, the trial court directed Stockton to file a concise statement of errors complained of on appeal within twenty-one days pursuant to Pa.R.A.P. 1925(b). Stockton filed a timely "Statement of Claims" on February 2, 2011, setting forth eighteen claims of error on the part of the trial court in dismissing his petition for review. On March 25, 2011, the trial court filed an opinion in support of its December 17, 2010, order dismissing Stockton's petition for review.

In the instant appeal, Stockton presents twelve questions for this Court's review in his Statement of the Questions Involved. However, the dispositive issue presented herein is whether the trial court properly dismissed Stockton's petition for review pursuant to Section 6602 of the PLRA. Specifically, Section 6602(e) provides, in pertinent part, as follows:

(e) DISMISSAL OF LITIGATION.-- Notwithstanding any filing fee which has been paid, the court shall dismiss prison conditions litigation at any time, including prior to

service on the defendant, if the court determines any of the following:

(1) The allegation of indigency is untrue.

~~(2) 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, including immunity, which, if asserted, would preclude the relief.~~

42 Pa.C.S. §6602(e).

In Brown, the inmate filed a petition for writ of mandamus with the court of common pleas seeking a declaration that the Department of Corrections (DOC), the chief hearing examiner for the DOC, and the superintendent of SCI-Fayette violated their own rules, laws and procedures governing inmate discipline when they upheld the filing of a misconduct report against the inmate for disobeying an order. The inmate also requested *in forma pauperis* status. The respondents moved to dismiss the petition for writ of mandamus pursuant the PLRA. The court of common pleas granted the respondents' motion to dismiss and denied the inmate's request to appear *in forma pauperis*. The inmate then appealed to this Court.

Upon review, this Court reiterated its prior holding, and that of the Pennsylvania Supreme Court, that the "DOC's decision concerning charges of misconduct against an inmate are beyond this Court's appellate or original jurisdiction." Brown, 913 A.2d at 305 (citing Bronson v. Central Office Review Committee, 554 Pa. 317, 721 A.2d 357 (1998) and Edmunson v. Horn, 694 A.2d 1179 (Pa. Cmwlth. 1997)). Quoting Bronson, 554 Pa. at 321, 721 A.2d at 358-59, we set forth the reasoning for the foregoing holding:

[I]nternal prison operations are more properly left to the legislative and executive branches, and that prison

officials must be allowed to exercise their judgment in the execution of policies necessary to preserve order and maintain security free from judicial interference. . . . Unlike the criminal trial and appeals process where a defendant is accorded the full spectrum of rights and protections guaranteed by the state and federal constitutions, and which is necessarily within the ambit of the judiciary, the procedures for pursuing inmate grievances and misconduct appeals are a matter of internal prison administration and the 'full panoply of rights due a defendant in a criminal prosecution is not necessary in a prison disciplinary proceeding.'

Brown, 913 A.2d at 305 (citations omitted). This Court stated further that:

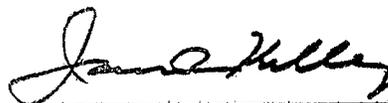
[a]lthough this controversy is distinguishable from *Bronson* and *Edmondson* (sic) insofar as Brown appealed his misconduct to the common pleas court rather than this Court, the limitations placed upon the judiciary to rule on issues of internal prison operations as set forth in *Bronson* apply to our common pleas courts as well. Further, in *Robson v. Bester*,[] 420 A.2d 9, 12 (Pa. Cmwlth. 1980), this Court determined that the 'operation of correctional facilities is peculiarly within the province of the legislative and executive branches of the government and not the judicial branch.'

Id. at 305-06.

Moreover, a review of Stockton's petition for review reveals that he has not stated a claim upon which relief may be granted with respect to the alleged violation of his due process rights. Stockton alleges that Respondents violated their own policies and procedures and his right to due process by not notifying him in a meaningful time that his administrative custody status was extended beyond fifteen days. However, the DOC's grievance procedures do not implicate rights under the United States and Pennsylvania Constitutions, Lockett v. Blaine, 850 A.2d 811 (Pa. Cmwlth. 2004), and as we have stated previously herein, intra-prison grievance decisions are not final adjudications within our appellate jurisdiction or

matters that we or the court of common pleas may review in a civil action involving the deprivation of constitutional rights. Brown; Ricketts v. Central Office Review Committee, 557 A.2d 1180 (Pa. Cmwlth.), petition for allowance of appeal denied, 524 Pa. 636, 574 A.2d 75 (1989); Robson. Therefore, Stockton has failed to state a claim upon which relief may be granted with respect to his allegation that his due process rights were violated under the United States Constitution.

Accordingly, the trial court properly granted Respondents' motion to dismiss pursuant to Section 6602(e) of the PLRA as the court lacked jurisdiction to dismiss the misconduct filed against Stockton and Stockton has failed to state a claim upon which relief may be granted. The trial court's order is affirmed.<sup>2</sup>



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JAMES R. KELLEY, Senior Judge

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<sup>2</sup> We note that Stockton's contention in his brief that the trial court erred by ordering him pursuant to Pa.R.A.P. 1925(b), to file a concise statement of issues complained of on appeal before the trial court issued an opinion in this matter is meritless. The plain language of Rule 1925(b) grants the trial court the discretion and the authority to order Stockton to file such a statement before issuing an opinion in support of its December 17, 2010, order.

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**ORDER**

AND NOW, this 12<sup>th</sup> day of August, 2011, the order of the Court of Common Pleas of Centre County entered in the above-captioned matter is affirmed.



JAMES R. KELLEY, Senior Judge

Certified from the Record

AUG 12 2011

and Order Exit