

00-397-C
ANDRE D. THOMAS -vs- COMMONWEALTH OF PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

ANDRE D. THOMAS

-vs-

No. 00-397-CP

COMMONWEALTH OF PENNSYLVANIA:

By and through the District Attorney of

Clearfield County, et al.

ORDER

NOW, this 31st day of March, 2000, upon consideration of Petition for Review filed on behalf of Petitioner above-named, it is the ORDER of this Court that said Petition be and is hereby denied.

By the Court,

President Judge

FILED

MAR 31 2000

William A. Shaw
Prothonotary

FILED

REC'D MAR 31 2000
11:30 AM
William A. Shaw
Prothonotary

cc: Ent to D.A. & Thomas

MAILED 5-10-00

Should this be
criminal not civil?

And are you going
to grant the
IFP?

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

ANDRE D. THOMAS, : Civil Action No. 00-397-CD
Petitioner :
VS. :
: COMMONWEALTH OF PENNSYLVANIA :
by and through the District :
Attorney of Clearfield :
County, et al, :
Respondent :
:

APPLICATION TO PROCEED IN FORMA PAUPERIS

I, Andre D. Thomas, hereby state that the information below concerning my inability to pay the costs of this proceeding is true and correct to the best of my knowledge, and subject to the penalties of law set forth in 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

I confirm under the penalties of law that:

- 1). I am the petitioner in the matter within, and because of my financial situation I am unable to pay the fees and costs of this proceeding.
- 2). I am a prisoner of the Commonwealth of Pennsylvania, housed at the State Correctional Institution at Moutzdale.
- 3). The meager allowance of \$18.00 per month, which I am afforded in return for my labor at the prison, is barely enough to sustain me with basic necessities such as toiletries and personal hygiene products, and does not allow me to set aside money for any other purpose.
- 4). I have no income, pensions, annuities, social security benefits, support payments, etc., from any other source.
- 5). I do not own any real estate, stocks, bonds, notes, automobiles, precious jewelry, nor any other valuable property.

FILED

MAR 31 2000

William A. Shaw
Prothonotary

WHEREFORE, the petitioner requests this Honorable Court to allow him to proceed in forma pauperis with the attached petition.

Respectfully Submitted,

DATED: 3-28-00

Andre D. Thomas

Andre D. Thomas
CX-0067
Box 1000
Houtzdale, PA 16698-1000

VERIFICATION

I, Andre D. Thomas, verify that the statements made in this Application to Proceed In Forma Pauperis are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Andre D. Thomas

Andre D. Thomas

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

ANDRE D. THOMAS, : Civil Action No. 00-397-cd
Petitioner :
vs. :
COMMONWEALTH OF PENNSYLVANIA :
by and through the District :
Attorney of Clearfield :
County, et al, :
Respondent :
:

PETITION FOR REVIEW
(In the nature of a complaint in Mandamus
and/or Declaratory Judgment)

NOW COMES, Andre D. Thomas, pro-se and hereby respectfully
moving this honorable court for an order in Mandamus and/or a
declaratory judgment, and says:

I. JURISDICTION:

1). This honorable court has jurisdiction over this instant
petition for review by the virtue of Rule 1601, Pa. Rules of
Civil Procedure and, 42 Pa. C.S.A. §7532, relating to declaratory
judgment and by Rule 1092 (c) (1) of the Pa. Rules of Civil
Procedure, relating to actions in Mandamus.

II. PARTIES TO PETITION:

1). Andre Thomas is a prisoner of the Commonwealth of
Pennsylvania, housed at the State Correctional Institution at

FILED

MAR 31 2000

William A. Shaw
Prothonotary

Houtzdale, Clearfield County.

2). Paul Cherry is the District Attorney of Clearfield County, Pennsylvania.

III. STATEMENT OF CASE:

1. On or about February 17, 2000, Andre Thomas submitted a Private Criminal Complaint against William Richardson, a correctional officer at Houtzdale Prison, to the Office of the District Attorney of Clearfield County, requesting that the complaint be filed and acted upon. (see attached exhibit 2.)

2): On or about March 3, 2000, petitioner received a response from Paul E. Cherry of the District Attorney's office, advising petitioner that his office would not accept the private complaint that petitioner filed. The reason stated for not accepting the complaint was Mr. Cherry's "belief" that the proper process would be for petitioner to follow the administrative process within SCI-Houtzdale. (See attached exhibit 1.)

3). Petitioner believes that Mr. Cherry's reasons for not accepting his complaint are flawed. A quick review of the Criminal Complaint and it's attached affidavit and exhibits clearly shows the petitioner's attempts to deal with the issues contained within the complaint through the administrative process within the institution. Only after several months of frustration did the

petitioner finally pursue a Criminal Complaint. In addition, petitioner believes that as a resident of Clearfield County, and of Pennsylvania, he is just as entitled to file a Private Criminal Complaint as any other victim of criminal activity is, regardless of his access to an administrative process within the prison.

4). In his refusal to pursue petitioner's Private Criminal Complaint, Mr. Cherry cited no reason other than his belief that the issues could be settled through the administrative process at the prison, therefore not denying that petitioner's complaint indeed did have merit. Petitioner asserts that if his complaint was without merit, the District Attorney's Office would have refused the complaint for that reason as opposed to Mr. Cherry's "belief" in simpler avenues of settlement. Petitioner additionally asserts that he was denied Due Process of law when the District Attorney refused to file his Private Complaint for issues other than meritorious ones.

Wherefore, petitioner respectfully moves this honorable court to Order the Clearfield County District Attorney's Office to investigate and/or pursue petitioner's Private Criminal Complaint against William Richardson, or to be more specific in it's reasons not to pursue said complaint, or to Order such other relief which would cause right and justice to be done.

Respectfully Submitted,

Andre D. Thomas
Andre D. Thomas
D.O.C. No. CX-0067
Box 1000
Houtzdale, PA 16698-1000

VERIFICATION

I, Andre Thomas, verify that the statements made within this PETITION FOR REVIEW are true and correct to the best of my knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsifications to authorities.

Andre D. Thomas
Andre D. Thomas

EXHIBIT LOG

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
Exhibit #1.....	Letter from Mr. Cherry denying petitioner's request to file Private Criminal Complaint.
Exhibit #2 (4 pages).....	Petitioner's Private Criminal Complaint.
Exhibit #3 (2 pages).....	Affidavit of events leading up to, and in support of Private Criminal Complaint being filed.
Exhibit #4-A (2 pages).....	Misconduct Report
Exhibit 4-B.....	Official Inmate Grievance, filed by petitioner following incident.
Exhibit 4-C (2 pages).....	Official response by prison administration to petitioner's grievance.
Exhibit 4-D.....	Inmate's Request to Staff Member, sent to Grievance Coordinator in response to her denial of his grievance against William Richardson.
Exhibit 4-E.....	Letter to John McCullough, Warden of Houtzdale Prison, and his response to petitioner's dilemma.

Exhibit 1



OFFICE OF THE DISTRICT ATTORNEY
OF CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

PAUL E. CHERRY
District Attorney
Phone: (814) 765-2641

STACY R. PARKS
First Assistant
District Attorney

March 2, 2000

Andre Thomas, CX-0067
SCI-Houtzdale
State Route 2007
P.O. Box 1000
Houtzdale, PA. 16698

RE: Private Criminal Complaint

Dear Mr. Thomas:

We are in receipt of your Private Criminal Complaint asking that criminal charges be filed against Corrections Officer William D. Richardson.

Please be advised that we will not accept the Private Criminal Complaint which you asked to be filed. We believe the proper process would be for you to follow the administrative process at SCI - Houtzdale. Should you desire further information concerning the administrative process please inquire from the administration at SCI - Houtzdale.

I certainly trust that your grievances you may have may be addressed through this administrative process.

Very truly yours,

A handwritten signature in black ink that reads "Paul E. Cherry".
PAUL E. CHERRY, ESQUIRE
District Attorney

PEC/dmp

cc: Superintendent McCullough

Exhibit 21 of 4

2-18-00

February 17, 2000

Andre Thomas
CX-0067
P.O. Box 1000
Houtzdale, PA 16698

Mr. Paul E Cherry, Esq.
Clearfield County District Attorney
District Attorney's Office
230 East Market Street
Clearfield, PA 16830

Re: Private criminal complaint.

Dear Mr. Cherry:

I am an inmate at the State Correctional Institution at Houtzdale. Enclosed please find a private criminal complaint that I respectfully request you file on my behalf, against William D. Richardson, a correctional officer employed by the same Institution. Also find enclosed, an affidavit explaining the incidents which led to the filing of this complaint, and related exhibits in support of the allegations I am making.

Please note that I have attempted to address the situation within the Institution; first by filing an Official Inmate Grievance, and then through a letter to the warden. Both attempts were unsuccessful.

Please be assured in advance, that you will have my full cooperation in any investigation your office may wish to conduct regarding this matter. I am also willing to submit to a polygraph to verify the truthfulness of my complaint.

In closing I wish to thank you in advance for your time and consideration concerning this matter. If you have any further questions for me, please contact me at the above address. I remain

Sincerely yours,

Andre Thomas

cc: file (1)
PA-Cure
NAACP-Pittsburgh
NAACP-Philadelphia

Exhibit 2
2 of 4

PRIVATE COMPLAINT

Clearfield County District Attorneys Office

Approved

Disapproved

because: _____

Date

Signature

2
COMMONWEALTH OF PENNSYLVANIA

v.

WILLIAM D. RICHARDSON

I, the undersigned, do hereby state under oath:

(1) My name is Andre Thomas, an inmate at the State Correctional Institution at Houtzdale (D.O.C. No. CX-0067);

(2) I accuse William D. Richardson, a correctional officer employed at the State Correctional Institution at Houtzdale, with violating the penal laws of the Commonwealth of Pennsylvania;

(3) The date when the accused committed the offense was on or about November 18, 1999;

(4) The place where the offense was committed was in the County of Clearfield;

(5) The acts committed by the accused were False Reports to Authorities, and Harassment, both of which were against the peace and dignity of the Commonwealth of Pennsylvania;

(6) I ask that a warrant of arrest or a summons be issued and that the accused be required to answer the charges I have made; and

(7) I swear to the within complaint upon my knowledge, information and belief, and sign it on 2-10, 2000, before Mr Shorts whose office is that of Notary Public.

Andre Thomas
Andre Thomas

Exhibit 2 4 of 4

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF CLEARFIELD :ss.
:

Personally appeared before me on Feb 10, 2000, the above-named who being duly sworn (affirmed) according to law, signed the complaint in my presence and deposed and said that the facts set forth therein are true and correct to the best of his knowledge, information and belief

T. A. Shotts (Seal)



Exhibit 3 of 2 AFFIDAVIT

On November 18, 1999, during an early morning Institutional Count at SCI-Houtzdale, Inmate Andre Thomas (DOC # CX-0067) was accused of not being out of his bed and standing (as required by institutional policy), by Sergeant William D. Richardson. Sergeant Richardson then issued Thomas a misconduct report (see attached exhibit A), charging him with "Failure to stand for count or interference with count" and "Refusing to obey an order". On November 22, 1999, a Disciplinary Hearing was held regarding these charges. Several witnesses testified before prison staff member Carol Baker, The Hearing Examiner.

It was alleged by Inmate Thomas, and confirmed by Correctional Officer Miller and Inmate Sanitate, that Sergeant Richardson, although in Thomas' cell-block on the morning in question, in fact, was not one of the officers who conducted the count that morning as he had claimed in the Misconduct Report. Sergeant Richardson also claimed in the Misconduct Report that Correctional Officer Mick had assisted him in counting that morning, however, he subsequently told the Hearing Examiner that he (Sergeant Richardson) had been involved in the count because Correctional Officer Mick had been "called off the block". Correctional Officer Mick was listed on the Misconduct Report as a staff witness to Sergeant Richardson's allegation. As a result of this testimony, and several inconsistencies in Sergeant Richardson's version of events, The misconduct against Inmate Thomas was dismissed.

Following the dismissal of his misconduct charge, Inmate Thomas filed an "Official Inmate Grievance" on November 29, 1999, against Sergeant Richardson (see attached exhibit B). The Grievance recounted the events leading up to the dismissal of the Misconduct Report, and sought condemnation of Sergeant Richardson for blatantly abusing his authority and filing a false Misconduct Report. The Grievance was filed in a timely manner to the Institution's Grievance Coordinator, Mrs. Kathy M. Emel.

On November 30, 1999, Mrs. Emel promptly returned the grievance to Inmate Thomas, claiming that the grievance was invalid because it did not comply with Department of Correction provisions restricting the use of the Inmate Grievance System against issues related to "Institution Disciplinary and Restricted Housing Procedures (see attached exhibit C).

Believing that the reasoning behind Mrs. Emel's dismissal of his Grievance was not applicable to his complaint, Inmate Thomas sent Mrs. Emel a request slip on December 3, 1999, requesting her to reconsider her decision (see attached exhibit D). Mrs. Emel responded to his request by confirming her prior decision and informing Inmate Thomas that his appeal process would be through the P.R.C. (Program Review Committee). Inmate Thomas believes this advice to be frivolous because the P.R.C.'s function is in regard to misconduct appeals, not grievance appeals.

I believe the facts stated in this document to be true to the best of my knowledge.

Exhibit 4A (10f2)

DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA					
Rev. 6-84				DEPARTMENT OF CORRECTIONS					
<input checked="" type="checkbox"/> MISCONDUCT REPORT <input type="checkbox"/> OTHER							A 38817		
DC Number	Name		Institution	Incident Time	24 Hr. Base	Incident Date	Date of Report		
X0067	Thomas Andre		SIH	0610		11-18-99	11-18-99		
Quarters	Place of Incident								
FA 50	FA 50								
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)									
DC Number	Name		I	W	DC Number	Name		I	W
SIH	CO MICK								
MISCONDUCT CHARGE OR OTHER ACTION									
Class I Cat B #7 Refusing to obey an order Class I Cat D Failure to stand count or interfere with count									
STAFF MEMBER'S VERSION									
On the above date and time, I, Sgt. Robertson, was in the process of counting FA and top tier. I came up on FA cell #50, which houses inmate Thomas X0067. The count bell had been rung with two announcement made by CO MICK. I banged on the door and got no response. I then kicked the door and ordered Thomas to stand for count. He looked at me and continued to lay on his bunk. I again ordered him to stand for count and he refused. In the past 30 days, Thomas has been blackballed for count 6 times, including a misconduct issued on 11-10-99, an information report on 11-10-99, and misconduct #A38815 issued on 11-17-99, same charges as above. This behavior displays a blatant disregard for black officers authority as well as institutional policies regarding count procedures.									
IMMEDIATE ACTION TAKEN AND REASON									
Reasons in Present State No Restriction Hold until seen by the Hearing Examiner. Inmate Informed of misconduct									
PRE-HEARING CONFINEMENT									
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES							
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		TIME	DATE						
FORMS GIVEN TO INMATE <input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION <input checked="" type="checkbox"/> INMATE'S VERSION									
REPORTING STAFF MEMBER SIGNATURE AND TITLE ON Will Brigitte CO			ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY D. Brigitte CO			DATE AND TIME INMATE GIVEN COPY DATE 11-18-99 TIME 24 HOUR BASE 0830			
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE 11-19-99 TIME 1100									
NOTICE TO INMATE You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.									
<input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2					Signature of Person Serving Notice T. C. Confer T. C. Confer CO				

FORM DC-141 PART II B		COMMONWEALTH OF PENNSYLVANIA					
Rev. 6-84		DEPARTMENT OF CORRECTIONS					
DISCIPLINARY HEARING REPORT		DC Number	Name	Institution	Hearing Date	Hearing Time	No. from PART I
		CX-0067	Thomas, Andre	SCI-HOU	11/22/99	1000	A38817
INMATE	<input type="checkbox"/> Guilty	<input type="checkbox"/> No Plea		Verdict	<input type="checkbox"/> Guilty		
PLEA	<input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> Other			<input type="checkbox"/> Not Guilty	O.W.O.P.	
CHARGES		HEARING ACTION					
		7 Refusing to obey an order 23 Failure to stand count or interference with count					
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED							
<p><i>No Written Version</i> <i>Please not guilty 7, # 23</i> <i>States that Sgt. Richardson was not on</i> <i>the block (FP) at 0610. Sgt. Richardson did not conduct</i> <i>count on 11/18/99 at 0610. female witness Sanitale appear and</i> <i>testify that he was awake on 11/18/99 at 0610 (weds in bakery)</i> <i>26 did not see Sgt. Richardson. C.O. Mack and another (2)</i> <i>conducted count. Thomas state he was up for count that day.</i> <i>28 being postponed until C.O. Miller is available to testify.</i> <i>29 being postponed until 1045. C.O. Miller has been</i> <i>waiver signed. HEX contact Sgt. Richardson who state he certainly</i> <i>did count FP block on 11/18/99 at 0610. regular C.O. had been</i> <i>called off block. action that occurred are recorded in mescon unit</i> <i>report. Hearing review on 11/24/99 at 1045. C.O. Miller appears</i> <i>and states that there is a difference in staff opinion.</i> <i>Desmis without Prejudice</i> <i>Difference in staff opinion</i> </p>							
<p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The inmate has heard the decision and has been told the reason for it and what will happen.</p> <p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The circumstances of the charge have been read and fully explained to the inmate.</p> <p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The opportunity to have the inmate's version reported as part of the record was given.</p> <p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.</p>							
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)				<p>CC. CAR</p> <p>SEE APPENDICES <input type="checkbox"/></p> <p><i>entree Form</i></p> <p>Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.</p> <p><i>Carol Baker</i></p>			
Carol Baker, Hearing Examiner				SIGNATURE OF HEARING EXAMINER/COORDINATOR			

Exhibit AB

DC-804
PART 1

AL

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO. [REDACTED]

TO: GRIEVANCE COORDINATOR KATHY EMEL	INSTITUTION Houtzdale	DATE 11-29-99
FROM: (Commitment Name & Number) Andre Thomas CX-0067	INMATE'S SIGNATURE Andre Thomas	
WORK ASSIGNMENT Block worker	QUARTERS ASSIGNMENT F-A 50 CELL	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

Here is a copy of the false misconduct and Hearing Examiner report. S.R.G.T. Richardson wrote out a false misconduct. He said that he conducted Count on 11-18-99, which is a Total Lie. S.R.G.T. Richardson did work a Pod that day. But he did not do Count at all. If you were to pick any 20 people at random from a Pod, they would tell you the same thing. I went to my misconduct Hearing, and it was dismissed, because one of the guards who did the actual Count came to my hearing and told the truth. (C.O. Miller.) I would like a reply back if possible, so I could make copies for my personal records and to send to my family.

B. Actions taken and staff you have contacted before submitting this grievance:

I spoke to Captain McMahon personally about this matter.

Exhibit 4C
1 of 2

COMMONWEALTH OF PENNSYLVANIA
SCI-Houtzdale

DATE: November 30, 1999
SUBJECT: Inmate Grievance Review System

TO: Andre Thomas, ~~0000~~ CX0067, FA-50

FROM: *RmReife for K. Emel*
Kathy M. Emel
Corrections Superintendent Assistant

I am returning your grievance because you have not complied with the following provision(s) of DC-ADM 804, Inmate Grievance Review System:

- As per Section VI. Procedures A. All grievances shall be in writing and in the format provided by the forms supplied at the institution. Forms are available in the block office.
- All grievances shall be presented individually. Group grievances are prohibited.
- Only an inmate who has been personally affected by a Department or institution action or policy shall be permitted to seek review of a grievance.
- Grievances must be signed.
- All grievances must be presented in good faith. They shall include a brief statement of the facts relevant to the claim. The text of the grievance must be legible and presented in a courteous manner. Any inmate who submits a grievance containing false and malicious information may be subject to disciplinary action.
- You are required to make an attempt to work out any problems or differences with staff informally or by submitting a written request directly to the staff member involved or responsible for the area about which you are grieving. You need to address this issue to _____
- Grievances based upon different events should be presented separately, unless necessary to combine to support the claim.

over →

Section VI.E. Exceptions states that any inmate grievance may be addressed to the Inmate Grievance Coordinator except issues related to the following:

1. Incoming Publications, DC-ADM 814.
2. Institution Disciplinary and Restricted Housing Procedures, DC-ADM 801.
3. Administrative Custody Procedures, DC-ADM 802.
4. Policy and Procedures for Obtaining Prerelease Transfer, DC-ADM 805.
5. Other kinds of issues for which review procedures have been previously established by administrative memorandum or policy statement.

Grievances related to the above issues shall be according to procedures specified in the directives listed and shall not be reviewed by the Inmate Grievance Coordinator.

Initial Reviews must be submitted within 15 calendar days after the events upon which claims are based.

Block B. must be completed, as per the instructions noted on the Official Inmate Grievance Form, DC-804 Part 1.

Comments: _____

"Exhibit D"

DC-135A

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

INMATE'S REQUEST TO STAFF MEMBER

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

Kathy Emel

2. DATE

12-3-99

3. BY: (INSTITUTIONAL NAME AND NUMBER)

CX-0067 Thomas

4. COUNSELOR'S NAME

Mrs Lettie

5. WORK ASSIGNMENT

Block worker

6. QUARTERS ASSIGNMENT

F-A 50 CELL

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

You sent my Grievance Back with Grievance Review Report attached and circled #2 I read the whole DL-ADM 814 section and I don't understand it. I sent proof that SRGT. lied. from what was on the Hearing Examiner report that should be proof enough. I'd like a reply back if possible to keep in my records.

Thank You

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

Mr. Thomas,

You may not grieve misconduct related issues. Your appeal process is through PRC.

Mrs Emel

cc: fil's

TO DC-14 CAR ONLY

TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

Exhibit 4E

January 25, 2000

Andre Thomas
CX-0067

PO Box 1000
Houtzdale, PA 16698

FA-50

John McCullough
Superintendent
SCI Houtzdale
Houtzdale, PA 16698

Mr. McCullough:

Enclosed is a copy of an affidavit concerning an incident that occurred on FA unit. I have attempted to rectify this situation through the grievance system, but was denied the opportunity by Ms. Emil. I would like to have your response to this situation.

I do not believe I have any administrative recourse in this matter. The misconduct was dismissed so I cannot address it through the Program Review Committee (P.R.C.). This situation has caused me to lose sleep and upset me greatly.

I would appreciate a response in this matter. Thank you for your time.

Sincerely;

Andre Thomas
Andre Thomas

Andre Thomas

encl;
cc: file

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

PROOF OF SERVICE

I, Andre Thomas, hereby certify that I am on this day serving a true and correct copy of the foregoing documents upon the persons and in the manner indicated below, which service satisfies the requirements of the Rule of Law.

SERVICE BY FIRST-CLASS MAIL; POSTAGE PRE-PAID FROM HOUTZDALE;

The Honorable John Reilly Jr., P.J., (one copy)
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Paul E. Cherry, Esq., (one copy)
Clearfield County District Attorney's Office
Clearfield County Courthouse
Clearfield, PA 16830

Mike Fisher, Attorney General, (one copy)
Office of the Attorney General
Sixteenth floor, Strawberry Square
Harrisburg, PA 17120

Land Th (s)

Andre D. Thomas
D.O.C. No. CX-0067
Box 1000
Houtzdale, PA 16698-1000

ON THIS DATE: 3-28-00

FILED

Shaw MAR 31 2000

~~AM 13:50 AM~~ William A. Shaw

Prothonotary

~~2000~~ to PUFF.
1 UNCRRT.

March 27, 2000

Andre D. Thomas
CX-0067
Box 1000
Houtzdale, PA 16698-1000

Mr. William Shaw
Clerk of Court
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: Petition for Review

Dear Mr. Shaw:

Enclosed please find three sets of documents to file with the court regarding a Petition for Review and a Motion to Proceed In Forma Pauperis.

Thank you for your time and consideration concerning this matter. I remain

Very truly yours,

Andre Thomas
Andre D. Thomas

cc: file

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

ANDRE D. THOMAS, : Civil Action No. 00-397-CP
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by and through the District :
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I confirm under the penalties of law that:

- 1). I am the petitioner in the matter within, and because of my financial situation I am unable to pay the fees and costs of this proceeding.
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- 3). The meager allowance of \$18.00 per month, which I am afforded in return for my labor at the prison, is barely enough to sustain me with basic necessities such as toiletries and personal hygiene products, and does not allow me to set aside money for any other purpose.
- 4). I have no income, pensions, annuities, social security benefits, support payments, etc., from any other source.
- 5). I do not own any real estate, stocks, bonds, notes, automobiles, precious jewelry, nor any other valuable property.

WHEREFORE, the petitioner requests this Honorable Court to allow him to proceed in forma pauperis with the attached petition.

Respectfully Submitted,

DATED: 3-28-00

Andre D. Thomas

Andre D. Thomas
CX-0067
Box 1000
Houtzdale, PA 16698-1000

VERIFICATION

I, Andre D. Thomas, verify that the statements made in this Application to Proceed In Forma Pauperis are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Andre D. Thomas

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

ANDRE D. THOMAS, : Civil Action No. 00-397-cv
Petitioner :
vs. :
COMMONWEALTH OF PENNSYLVANIA :
by and through the District :
Attorney of Clearfield :
County, et al, :
Respondent :
:

PETITION FOR REVIEW
(In the nature of a complaint in Mandamus
and/or Declaratory Judgment)

NOW COMES, Andre D. Thomas, pro-se and hereby respectfully
moving this honorable court for an order in Mandamus and/or a
declaratory judgment, and says:

I. JURISDICTION:

1). This honorable court has jurisdiction over this instant
petition for review by the virtue of Rule 1601, Pa. Rules of
Civil Procedure and, 42 Pa. C.S.A. §7532, relating to declaratory
judgment and by Rule 1092 (c) (1) of the Pa. Rules of Civil
Procedure, relating to actions in Mandamus.

II. PARTIES TO PETITION:

1). Andre Thomas is a prisoner of the Commonwealth of
Pennsylvania, housed at the State Correctional Institution at

Houtzdale, Clearfield County.

2). Paul Cherry is the District Attorney of Clearfield County, Pennsylvania.

III. STATEMENT OF CASE:

1. On or about February 17, 2000, Andre Thomas submitted a Private Criminal Complaint against William Richardson, a correctional officer at Houtzdale Prison, to the Office of the District Attorney of Clearfield County, requesting that the complaint be filed and acted upon. (see attached exhibit 2.)

2). On or about March 3, 2000, petitioner received a response from Paul E. Cherry of the District Attorney's office, advising petitioner that his office would not accept the private complaint that petitioner filed. The reason stated for not accepting the complaint was Mr. Cherry's "belief" that the proper process would be for petitioner to follow the administrative process within SCI-Houtzdale. (See attached exhibit 1.)

3). Petitioner believes that Mr. Cherry's reasons for not accepting his complaint are flawed. A quick review of the Criminal Complaint and it's attached affidavit and exhibits clearly shows the petitioner's attempts to deal with the issues contained within the complaint through the administrative process within the institution. Only after several months of frustration did the

petitioner finally pursue a Criminal Complaint. In addition, petitioner believes that as a resident of Clearfield County, and of Pennsylvania, he is just as entitled to file a Private Criminal Complaint as any other victim of criminal activity is, regardless of his access to an administrative process within the prison.

4). In his refusal to pursue petitioner's Private Criminal Complaint, Mr. Cherry cited no reason other than his belief that the issues could be settled through the administrative process at the prison, therefore not denying that petitioner's complaint indeed did have merit. Petitioner asserts that if his complaint was without merit, the District Attorney's Office would have refused the complaint for that reason as opposed to Mr. Cherry's "belief" in simpler avenues of settlement. Petitioner additionally asserts that he was denied Due Process of law when the District Attorney refused to file his Private Complaint for issues other than meritorious ones.

Wherefore, petitioner respectfully moves this honorable court to Order the Clearfield County District Attorney's Office to investigate and/or pursue petitioner's Private Criminal Complaint against William Richardson, or to be more specific in it's reasons not to pursue said complaint, or to Order such other relief which would cause right and justice to be done.

Respectfully Submitted,

Andre D. Thomas
Andre D. Thomas
D.O.C. No. CX-0067
Box 1000
Houtzdale, PA 16698-1000

VERIFICATION

I, Andre Thomas, verify that the statements made within this PETITION FOR REVIEW are true and correct to the best of my knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsifications to authorities.

Andre D. Thomas
Andre D. Thomas

EXHIBIT LOG

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
Exhibit #1.....	Letter from Mr. Cherry denying petitioner's request to file Private Criminal Complaint.
Exhibit #2 (4 pages).....	Petitioner's Private Criminal Complaint.
Exhibit #3 (2 pages).....	Affidavit of events leading up to, and in support of Private Criminal Complaint being filed.
Exhibit #4-A (2 pages).....	Misconduct Report
Exhibit 4-B.....	Official Inmate Grievance, filed by petitioner following incident.
Exhibit 4-C (2 pages).....	Official response by prison administration to petitioner's grievance.
Exhibit 4-D.....	Inmate's Request to Staff Member, sent to Grievance Coordinator in response to her denial of his grievance against William Richardson.
Exhibit 4-E.....	Letter to John McCullough, Warden of Houtzdale Prison, and his response to petitioner's dilemma.

Exhibit 1



OFFICE OF THE DISTRICT ATTORNEY
OF CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

PAUL E. CHERRY
District Attorney
Phone: (814) 765-2641

STACY R. PARKS
First Assistant
District Attorney

March 2, 2000

Andre Thomas, CX-0067
SCI-Houtzdale
State Route 2007
P.O. Box 1000
Houtzdale, PA. 16698

RE: Private Criminal Complaint

Dear Mr. Thomas:

We are in receipt of your Private Criminal Complaint asking that criminal charges be filed against Corrections Officer William D. Richardson.

Please be advised that we will not accept the Private Criminal Complaint which you asked to be filed. We believe the proper process would be for you to follow the administrative process at SCI - Houtzdale. Should you desire further information concerning the administrative process please inquire from the administration at SCI - Houtzdale.

I certainly trust that your grievances you may have may be addressed through this administrative process.

Very truly yours,

A handwritten signature in black ink that reads "Paul E. Cherry".

PAUL E. CHERRY, ESQUIRE
District Attorney

PEC/dmp

cc: Superintendent McCullough

Exhibit 2 1 of 4

2-18-00

February 17, 2000

Andre Thomas
CX-0067
P.O. Box 1000
Houtzdale, PA 16698

Mr. Paul E Cherry, Esq.
Clearfield County District Attorney
District Attorney's Office
230 East Market Street
Clearfield, PA 16830

Re: Private criminal complaint.

Dear Mr. Cherry:

I am an inmate at the State Correctional Institution at Houtzdale. Enclosed please find a private criminal complaint that I respectfully request you file on my behalf, against William D. Richardson, a correctional officer employed by the same Institution. Also find enclosed, an affidavit explaining the incidents which led to the filing of this complaint, and related exhibits in support of the allegations I am making.

Please note that I have attempted to address the situation within the Institution; first by filing an Official Inmate Grievance, and then through a letter to the warden. Both attempts were unsuccessful.

Please be assured in advance, that you will have my full cooperation in any investigation your office may wish to conduct regarding this matter. I am also willing to submit to a polygraph to verify the truthfulness of my complaint.

In closing I wish to thank you in advance for your time and consideration concerning this matter. If you have any further questions for me, please contact me at the above address. I remain

Sincerely yours,

Andre Thomas

cc: file (1)
PA-Cure
NAACP-Pittsburgh
NAACP-Philadelphia

Exhibit 2
2 of 4

PRIVATE COMPLAINT

Clearfield County District Attorneys Office

Approved

Disapproved

because: _____

Date

Signature

Exhibit 2

3 of 4

COMMONWEALTH OF PENNSYLVANIA

v.

WILLIAM D. RICHARDSON

I, the undersigned, do hereby state under oath:

(1) My name is Andre Thomas, an inmate at the State Correctional Institution at Houtzdale (D.O.C. No. CX-0067);

(2) I accuse William D. Richardson, a correctional officer employed at the State Correctional Institution at Houtzdale, with violating the penal laws of the Commonwealth of Pennsylvania;

(3) The date when the accused committed the offense was on or about November 18, 1999;

(4) The place where the offense was committed was in the County of Clearfield;

(5) The acts committed by the accused were False Reports to Authorities, and Harassment, both of which were against the peace and dignity of the Commonwealth of Pennsylvania;

(6) I ask that a warrant of arrest or a summons be issued and that the accused be required to answer the charges I have made; and

(7) I swear to the within complaint upon my knowledge, information and belief, and sign it on 2-10, 2000, before Mr Shorts whose office is that of Notary Public.

Andre Thomas
Andre Thomas

Exhibit 2 4 of 4

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF CLEARFIELD :ss.
:

Personally appeared before me on Feb 10, 2000, the
above-named who being duly sworn (affirmed) according to law,
signed the complaint in my presence and deposed and said that
the facts set forth therein are true and correct to the best
of his knowledge, information and belief

TA Shts (Seal)

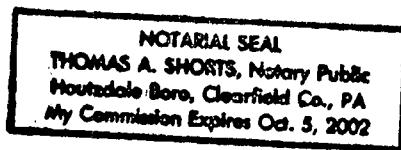


Exhibit 3 1 of 2

AFFIDAVIT

On November 18, 1999, during an early morning Institutional Count at SCI-Houtzdale, Inmate Andre Thomas (DOC # CX-0067) was accused of not being out of his bed and standing (as required by institutional policy), by Sergeant William D. Richardson. Sergeant Richardson then issued Thomas a misconduct report (see attached exhibit A), charging him with "Failure to stand for count or interference with count" and "Refusing to obey an order". On November 22, 1999, a Disciplinary Hearing was held regarding these charges. Several witnesses testified before prison staff member Carol Baker, The Hearing Examiner.

It was alleged by Inmate Thomas, and confirmed by Correctional Officer Miller and Inmate Sanitate, that Sergeant Richardson, although in Thomas' cell-block on the morning in question, in fact, was not one of the officers who conducted the count that morning as he had claimed in the Misconduct Report. Sergeant Richardson also claimed in the Misconduct Report that Correctional Officer Mick had assisted him in counting that morning, however, he subsequently told the Hearing Examiner that he (Sergeant Richardson) had been involved in the count because Correctional Officer Mick had been "called off the block". Correctional Officer Mick was listed on the Misconduct Report as a staff witness to Sergeant Richardson's allegation. As a result of this testimony, and several inconsistencies in Sergeant Richardson's version of events, The misconduct against Inmate Thomas was dismissed.

Following the dismissal of his misconduct charge, Inmate Thomas filed an "Official Inmate Grievance" on November 29, 1999, against Sergeant Richardson (see attached exhibit B). The Grievance recounted the events leading up to the dismissal of the Misconduct Report, and sought condemnation of Sergeant Richardson for blatantly abusing his authority and filing a false Misconduct Report. The Grievance was filed in a timely manner to the Institution's Grievance Coordinator, Mrs. Kathy M. Emel.

On November 30, 1999, Mrs. Emel promptly returned the grievance to Inmate Thomas, claiming that the grievance was invalid because it did not comply with Department of Correction provisions restricting the use of the Inmate Grievance System against issues related to "Institution Disciplinary and Restricted Housing Procedures (see attached exhibit C).

Believing that the reasoning behind Mrs. Emel's dismissal of his Grievance was not applicable to his complaint, Inmate Thomas sent Mrs. Emel a request slip on December 3, 1999, requesting her to reconsider her decision (see attached exhibit D). Mrs. Emel responded to his request by confirming her prior decision and informing Inmate Thomas that his appeal process would be through the P.R.C. (Program Review Committee). Inmate Thomas believes this advice to be frivolous because the P.R.C.'s function is in regard to misconduct appeals, not grievance appeals.

I believe the facts stated in this document to be true to the best of my knowledge.

DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA				A 38817	
Rev. 6-84		<input checked="" type="checkbox"/> MISCONDUCT REPORT <input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS					
DC Number	Name		Institution	Incident Time 24 Hr. Base		Incident Date	Date of Report		
X0067	Thomas, Andre		91 Hall	0610		11-18-99	11-18-99		
Quarters	Place of Incident		FA 50						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)									
DC Number	Name		I	W	DC Number	Name		I	W
Staff	CO MICK								
MISCONDUCT CHARGE OR OTHER ACTION <i>Class 1 Cat B #7 Refusing to obey an order, Class 1 Cat D Failure to stand court or interference with court</i>									
STAFF MEMBER'S VERSION <i>On the above date and time, I, Sgt Richardson, was in the process of counting FA and top tier. I came up on FA cell # 50, which houses Inmate Thomas X0067. The count bell had been rung with two announcements made by CO MICK. I banged on the door and got no response. I then kicked the door and ordered Inmate Thomas to stand for count. He looked at me and continued to lay on his bunk. I again ordered him to stand for count and he refused. In the past 30 days, Thomas has been blacklisted for count 6 times, including a misconduct issued on 11-10-99, an information report on 11-10-99, and misconduct #A38815 issued on 11-17-99, same charges as above. This behavior displays a blatant disregard for block officers authority as well as institutional policies regarding count procedures.</i>									
IMMEDIATE ACTION TAKEN AND REASON <i>Remain in Present Status No Restriction Hold until seen by the Hearing Examiner. Inmate informed of misconduct</i>									
PRE-HEARING CONFINEMENT				IF YES					
<input type="checkbox"/> YES	TIME	DATE	<input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION <input checked="" type="checkbox"/> INMATE'S VERSION						
<input checked="" type="checkbox"/> NO									
REPORTING STAFF MEMBER SIGNATURE AND TITLE <i>William Buckley, COT</i>			ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY <i>D. Briggs, COT</i>			DATE AND TIME INMATE GIVEN COPY DATE <i>11-18-99</i> TIME 24 HOUR BASE <i>0830</i>			
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE <i>11-19-99</i> TIME <i>1100</i>			Misconduct Category <input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2			Signature of Person Serving Notice <i>T.C. Carter</i>			
NOTICE TO INMATE You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be revoked.									

Exhibit
14A of J.

FORM DC-141 PART II B

Rev. 6-84

DISCIPLINARY HEARING REPORT

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF CORRECTIONS

DC Number CX-0067	Name Thomas, Andre	Institution SCI-HOU	Hearing Date 11/22/99	Hearing Time 1000	No. from PART I A38817
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	O.W.P.

HEARING ACTION

CHARGES
7 Refusing to obey an order
23 Failure to stand count or interference with count

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

No written version # 7, # 23
Please note Guilty. 7, # 23
States that Sgt. Richardson was not on
duty that Sgt. Richardson did not conduct
the block (FA) at 0610. Sgt. Richardson appears and
count on 11/18/99 at 0610 inmate witness Sanitize appears and
testifies that he was awake on 11/18/99 at 0610 (works in laundry)
26 did not see Sgt. Richardson. C.O. Mick and another C.O.
conducted count. Thomas states he was up for count that day.
C.O. Miller is available to testify.
Hearing postponed until C.O. Miller is available to testify.
Hearing postponed until HEX contact Sgt. Richardson who state he certainly
was not signed. HEX contact Sgt. Richardson who had been
bed count FA block on 11/18/99 at 0610. Regular C.O. had been
called off block. action that occurred are recorded in record
report. Hearing resume on 11/24/99 at 1045. C.O. Miller appears
and states that there is a difference in staff opinion.
Difference in staff opinion
Difference in staff opinion

<input type="checkbox"/> YES <input checked="" type="checkbox"/> YES <input type="checkbox"/> YES <input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO	<p>The inmate has heard the decision and has been told the reason for it and what will happen. The circumstances of the charge have been read and fully explained to the inmate. The opportunity to have the inmate's version reported as part of the record was given. The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.</p>	CC. CAR SEE APPENDICES
--	--	--	---------------------------

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

Carol Baker, Hearing Examiner

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

Carol Baker

SIGNATURE OF HEARING EXAMINER/COORDINATOR

Exhibit 4B

DC-804
PART 1

AL

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO. [Redacted]

TO: GRIEVANCE COORDINATOR KATHY EMEL	INSTITUTION Houtzdale	DATE 11-29-99
FROM: (Commitment Name & Number) Andre Thomas CX-0067	INMATE'S SIGNATURE Lindri Thomas	
WORK ASSIGNMENT Block worker	QUARTERS ASSIGNMENT F-A 50 CELL	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

Here is a copy of the false misconduct and Hearing Examiner report. S.R.G.T. Richardson wrote out a false misconduct. He said that he conducted Count on 11-18-99, which is a Total Lie. S.R.G.T. Richardson did work a Pod that day. But he did not do Count at all. If you were to pick any 20 people at random from a Pod. They would tell you the same thing. I went to my misconduct Hearing, and it was dismissed, because one of the guards who did the actual Count came to my hearing and told the truth. (C.O. Miller.) I would like a reply back if possible, so I could make copies for my personal records and to send to my family.

B. Actions taken and staff you have contacted before submitting this grievance:

I spoke to Captain Mc Mahon personally about this matter.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Exhibit 4C
1 of 2

COMMONWEALTH OF PENNSYLVANIA
SCI-Houtzdale

DATE: November 30, 1999
SUBJECT: Inmate Grievance Review System

TO: Andre Thomas, ~~0000~~ CX0067, FA-50

FROM: *RmReplies for K. Emel*
Kathy M. Emel
Corrections Superintendent Assistant

I am returning your grievance because you have not complied with the following provision(s) of DC-ADM 804, Inmate Grievance Review System:

- ____ As per Section VI. Procedures A. All grievances shall be in writing and in the format provided by the forms supplied at the institution. Forms are available in the block office.
- ____ All grievances shall be presented individually. Group grievances are prohibited.
- ____ Only an inmate who has been personally affected by a Department or institution action or policy shall be permitted to seek review of a grievance.
- ____ Grievances must be signed.
- ____ All grievances must be presented in good faith. They shall include a brief statement of the facts relevant to the claim. The text of the grievance must be legible and presented in a courteous manner. Any inmate who submits a grievance containing false and malicious information may be subject to disciplinary action.
- ____ You are required to make an attempt to work out any problems or differences with staff informally or by submitting a written request directly to the staff member involved or responsible for the area about which you are grieving. You need to address this issue to _____
- ____ Grievances based upon different events should be presented separately, unless necessary to combine to support the claim.

OVER →

Section VI.E. Exceptions states that any inmate grievance may be addressed to the Inmate Grievance Coordinator except issues related to the following:

1. Incoming Publications, DC-ADM 814.
2. Institution Disciplinary and Restricted Housing Procedures, DC-ADM 801.
3. Administrative Custody Procedures, DC-ADM 802.
4. Policy and Procedures for Obtaining Prerelease Transfer, DC-ADM 805.
5. Other kinds of issues for which review procedures have been previously established by administrative memorandum or policy statement.

Grievances related to the above issues shall be according to procedures specified in the directives listed and shall not be reviewed by the Inmate Grievance Coordinator.

Initial Reviews must be submitted within 15 calendar days after the events upon which claims are based.

Block B. must be completed, as per the instructions noted on the Official Inmate Grievance Form, DC-804 Part 1.

Comments: _____

Exhibit 4D

DC-135A		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS INMATE'S REQUEST TO STAFF MEMBER INSTRUCTIONS <i>Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.</i>	
1. TO: (NAME AND TITLE OF OFFICER) Kathy Emel		2. DATE 12-3-99	
3. BY: (INSTITUTIONAL NAME AND NUMBER) CX-0067 Thomas		4. COUNSELOR'S NAME Mrs Lettie	
5. WORK ASSIGNMENT Block worker	6. QUARTERS ASSIGNMENT F-1A 50 CELL		
7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS. <p>You sent my Grievance Back with Grievance Review Report attached and circled #② I read the whole DL-ADM 814 section and I don't understand it. I sent Proof that SGT. lied. from what was on the Hearing Examiner report that should be proof enough. I'd like a reply back if possible to keep in my records.</p>			
<p>Thank You</p> 			
8. DISPOSITION: (DO NOT WRITE IN THIS SPACE) <p>Mr. Thomas, You may not grieve misconduct related issues. Your appeal process is through PRC. Mrs. Emel</p> <p>(I fil)</p>			
<input type="checkbox"/> TO DC-14 CAR ONLY		<input type="checkbox"/> TO DC-14 CAR AND DC-15 IRS	
STAFF MEMBER		DATE	

EXHIBIT 4E

January 25, 2000

Andre Thomas

CX-0067

PO Box 1000

Houtzdale, PA 16698

FA-50

John McCullough
Superintendent
SCI Houtzdale
Houtzdale, PA 16698

Mr. McCullough:

Enclosed is a copy of an affidavit concerning an incident that occurred on FA unit. I have attempted to rectify this situation through the grievance system, but was denied the opportunity by Ms. Emil. I would like to have your response to this situation.

I do not believe I have any administrative recourse in this matter. The misconduct was dismissed so I cannot address it through the Program Review Committee (P.R.C.). This situation has caused me to lose sleep and upset me greatly.

I would appreciate a response in this matter. Thank you for your time.

Sincerely;

Andre Thomas
Andre Thomas

encl;
c: file

Andre Thomas
You misconduct that I was involved in
was dismissed
was involved in
This matter was resolved under
the go
End of issue
cc: MS Emil
-OK-

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

ANDRE D. THOMAS :
Petitioner : Civil Action No. _____
vs. :
COMMONWEALTH OF PENNSYLVANIA :
by and through the District :
Attorney of Clearfield :
County, et al, :
Respondent :
:

PROOF OF SERVICE

I, Andre Thomas, hereby certify that I am on this day serving a true and correct copy of the foregoing documents upon the persons and in the manner indicated below, which service satisfies the requirements of the Rule of Law.

SERVICE BY FIRST-CLASS MAIL; POSTAGE PRE-PAID FROM HOUTZDALE:

The Honorable John Reilly Jr., P.J., (one copy)
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Paul E. Cherry, Esq., (one copy)
Clearfield County District Attorney's Office
Clearfield County Courthouse
Clearfield, PA 16830

Mike Fisher, Attorney General, (one copy)
Office of the Attorney General
Sixteenth floor, Strawberry Square
Harrisburg, PA 17120

Andre J. Thomas (s)
Andre D. Thomas
D.O.C. No. CX-0067
Box 1000
Houtzdale, PA 16698-1000

ON THIS DATE: 3-28-00