

03-683-CD
MARCEL J. COOK vs. DEPARTMENT OF CORRECTIONS, et al

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MARCEL J. COOK : NO. 198 MB 2003
V. : JUDGE _____
:
The Department Of : Complaint For Damage
Corrections: : Civil Rights Violations
Mr. Everhart. FB UNIT :
manager, Ms. Deskevich.:
FB Counselor, Mr. McCullough. : Damages in excessive of
Superintendent, : 100,000.00 one hundred thousand
Thomas L. James. Chief : dollars each defendants in their
Grievance Coordinator, : individually and in their
Mr. Jeffery Beard. Secretary, : official capacity.
Mr. Love New Superintendent. : TRAIL BY JURY DEMANDED
FB unit C.O. Brown : Herein MS.
Ms. Kathy Emel :

PETITION FOR REVIEW
Grievance No. 36698

This Honorable Court has Original Jurisdiction pursuant to 42 P.A. C.S. 761; Pa.R.App.Rule 1501 (a)(3).

1. Petitioner Cook, on November 22, 2002, was discriminated against, intimidated, harassed, and forced to suffer in pain and Cruel and Unusually punishment because of false (accusations).

2. Above Respondants have obstructed petitioner's legal Right to information (or) discovery. In the matter.

3. Unit manager Mr. Everhart, Responded to the grievance that was filed on him.

4. Superintendent Mr. McCullough denied petitioner Cook, information under The right To Know Act., and that was use against cook.

5. Chief Grievance Coordinator, Thomas L. James Agreed with petitioner that unit manager Mr. Everhart should of not been allowed to respond to the Grievance, but Respondent James . provide no remedies in violation of petitioner's Cook, 8th Amendment and Due Process.

6. Department of Correction Mr. Jeffery Beard. Secretary, is being sued in his official capacity for failure to educate, train and supervise D.O.C. state employees.

Petitioner MARCEL J. COOK, Civil Rights and Constitutional Rights has been Violated at all times relevant herein the Defendants, all state Officials acting under the color of law and outside the scope of their jurisdiction and authority, willfully cause plaintiff a damage and emotional and mental injury, and in so doing,

violated clearly established law, as those laws apply to plaintiff rights protected under the Constitution, particularly under the 4th, 5th, 6th, 8th, and 14th Amendments. Pennsylvania Constitutions 1 sec.1, 1 sec.9, 1 sec. 10, and 1 sec. 14., P.A. statutes: 42 p.a. C.S. 8303, 18 pa. C.S.A. 241, and 242, GRIEVANCES (DC-ADM 804) illegal practices and procedural misconduct, by the unreasonable actions of defendants.

Defendant D.O.C. is liable under Doctrine of Respondents Superior for the acts of their employees committed within the scope of their employees duties, but outside the scope of their discretion in a long train which is a custom, policy, or practice to violate clearly established law.

I

c/a SK

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MARCEL J. COOK :
V. : GRIEVANCE NO. 36698
: :
Dept. of Corrects. :
Jeffery Beard., :
Mr. Everhart., :
Miss Deskevich., :
Mr. McCullough., :
Thomas L. James., :
New Spuerintendant,:
Mr. Love., Ms. Emel. :

03-683-CD

FILED NO
M 11/4/03
CC
MAY 06 2003

PETITION FOR REVIEW
INFORMA PAUPERIS MOTION

William A. Shaw
Prothonotary

See
E

TO THE HONORABLE COMMONWEALTH COURT JUDGE OF THE SAID COURT:

AND NOW, comes MARCEL J. COOK, petitioner pro se, who respectfully represents the foregoing document attached hereto and set forth the following in support thereof:

1. Petitioner is currently incarcerated in the state Correctional Institution at SCI-Houtzdale, Pennsylvania.
2. Petitioner's is an indigent pro se laymen.
3. Petitioner request that this Court permit him to proceed informa pauperis.
4. Petitioner declares that the issues he intends to raise for PETITION FOR REVIEW are meritorious and that this Petition for review is not taken to harass the government.
5. Petitioner attached his "Verified Statement" hereto which reflects his inability to pay the fees/costs of pursuing Petition For Review.

WHEREFORE, petitioner respectfully prays before this Honorable Court to grant him leave to file and proceed informa pauperis.

dated: 3-18-2003

Respectfully Submitted,

Marcel Cook
Pro Se' COOK

IN THE COMMONWEALTH OF PENNSYLVANIA

SK

MARCEL J. COOK : GRIEVANCE NO. 36698
v. :
Department of Corrections :
Jeffery Beard., :
Mr. Everhart., :
Mr. Brown., Ms. Emel :
Miss Des'kevich., :
Mr. McCullough., :
Thomas L. James., :
New Superintendent Mr. Love.:

IFP VERIFIED STATEMENT

AND NOW, comes MARCEL J. COOK, petitioner pro se respectfully representing his "Verified Statement" in support of his Application for leave of court to file and proceed informa pauperis, and presents the following:

1. I, MARCEL J. COOK, am the petitioner in the above captioned matter and because of my financial condition am unable to pay the fees and costs of pursuing Petition For Review.
2. I am unable to obtain funds from anyone, including my family and associates to pay the fees/costs of this litigation.
3. I represent that the information below relating to my inability to pay the fees/costs is true and correct:
 - (a) My Name and address is:
MARCEL J. COOK AJ-3114
P.O. Box 1000
Houtzdale, Pa. 16698
 - (b) Petitioner is currently incarcerated in the SCI-Houtzdale, Pennsylvania with a nominal monthly allowance of wages earned for prison labor.
 - (c) petitioner has no income from any business or profession, no self-employment, no interest or dividends, no pension or annuities, no social security or disability benefits or other source of income.
 - (d) petitioner has no property, no real estates, no motor vehicle, nor any stocks or bonds.

4. Petitioner verifies that the statements made in this Affidavit are true and correct. Petitioner understands that false statements made herein are subject to the penalties of 18 Pa.C.S.A. 4904, relating to unsworn falsification to authorities.

Marcel Cook

PAGE 1
C-B-2050

INMATE ACCOUNTS SYSTEM
MONTHLY ACCOUNT STATEMENT

03-12-2003
735 HOU

INMATE NUMBER	NAME LAST	FIRST	MI	OLD BALANCE
AJ3114	COOK	MARCEL		.26

BATCH #	DATE MO	TRANSACTION DESCRIPTION	TRANSACTION AMOUNT	BALANCE AFTER TRANSACTION
2019	02-14-2003	10 MAINTENANCE PAYROLL PAY GR.#1 1/1 - 1/31/03	60.72	60.98
8050	02-19-2003	32 HOU COMMISSARY FOR 2/19/2003	-31.22	29.76
2098	02-21-2003	38 INSIDE PURCHASES VENDACARD FEB 21, 2003	-5.00	24.76
8056	02-25-2003	32 HOU COMMISSARY FOR 2/25/2003	-7.87	16.89
8063	03-04-2003	32 HOU COMMISSARY FOR 3/04/2003	-11.10	5.79
NEW BALANCE AS OF THIS STATEMENT ----->				5.79

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MARCEL J. COOK :
V. : GRIEVANCE NO. 36698
: :
Department Of Correction :
Jeffery Beard, :
Mr. Everhart, :
Miss Deskevich, :
Mr. McCullough, : MOTION FOR APPOINTMENT
Ms. Emel, Mr. Brown : FOR COUNSEL
Thomas L. James, :
New Superintendent Mr. Love, :

AND NOW, this _____ day
of _____, 2003, Petitioner request Appointment of
Counselor.

On This _____ day of _____ 2003
The Court Granted Appointment of
Counsel _____

Signed BY: This _____ Court.

HISTORY OF CASE

HISTORY OF CASE

(1). On (or) about Nov.19,2002, Petitioner COOK, was housed on FR-Block.

(2). On Said date information was passed on to petitioner COOK that inmate Williams was spreading Rumors about Cook: Stating Cook Raped a 70 (or) 80 year old woman.

(3) petitioner had a Confrontation with inmate Williams, and petitioner told inmate Williams to stop spreading Lies around.

(4). On Nov. 22,2002 petitioner Cook was called into Counselor Miss Deskevich office.

(5). Unit Manager Mr. Everhart came into the Counselor office and accused petitioner of planning to cause harm, to Counselor Miss Deskevich.

(6). petitioner Cook repeatedly told Mr.Everhart that Cook never would harm no one.

(7). petitioner Cook told Mr. Everhart where ever you got this information, Please Provide it so Cook could clear his name.

(8). Mr.Everhart Refused to provide this information to Cook.

(9). Mr. Everhart told Cook to pack his property Cook was being moved off the Block:

(10). Cook Talked with Miss Deskevich about this matter. She clearly took Cook she had nothing to do with this.

(11). Inmate Cook file a Grievance. NO.36698.

Please See Exhibit NO. 1.

(12). Unit manager Mr. Everhart, who the Grievance was filed on Answered the Grievance:

Please See Exhibit No.2.

13. petitioner Due Process/ and Equal Protection on The Grievance as to unit manager Mr. Everhart answering the Grievance is Not being Provides to petitioner Cook.

(14). petitioner Cook Appealed to Superintendent McCullough

Please See Exhibits No.3.

14(A) Cook clearly stated that unit manager Mr.Everhart should not of had no part in the Grievance, (or) be able to Answer it.

Please See Exhibit 3A.

(15). Superintendent McCullough denied Cook's Appeal without Addressing COOK'S concerns, or due process Rights and information under the Right to know Act: Pa. Const. 65 P.S. Sec. 66.1 thur 4.

Please See Exhibit No. 3B.

(16). petitioner Cook Appeal to the Chief Counsel's office Stating Cook is being Discriminated Against, and being Treated with Cruel and Unusual punishment by Mr. Everhart, and Mr. McCullough because of Due Process and the Right To know Act.

Please See Exhibit 4.

(17). Chief Grievance Coordinator Mr. Thomas L. James Denied Cook's Adminstrative Appeal. But Agreed with Cook, that Mr. Everhart should not of been the Grievance officer to answer Cook's Grievance filed against Mr. Everhart.

Please See Exhibit No. 5.

(18). Ultimately, Cook's GRIEVANCE APPEAL, GRIEVANCE FILING PROCESS, and D.O.C. Policy of 804 and secretary Jeffery Beard State employees has committed illegal practices, and procedural misconduct when the mentioned defendants in their individually and in their official capacity violated both State and Federal Constitutions, and denied petitioner his Due Process.

Respectfully Submitted,

Marcel Cook
Pro Se MARCEL J. COOK AJ-3114
P.O. Box 1000
Houtzdale, Pa. 16698-1000

dated: 3-18-2003

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

FOR OFFICIAL USE ONLY

36698

GRIEVANCE NUMBER

OFFICIAL INMATE GRIEVANCE

TO: FACILITY GRIEVANCE COORDINATOR <i>Ms. Kathy A. M. I.</i>	FACILITY: S.C.I.-Houtz	DATE: 11/22/02
FROM: (INMATE NAME & NUMBER) MARCEL J. COOK AJ-3114	SIGNATURE of INMATE: <i>Marcel Cook</i>	
WORK ASSIGNMENT: P.M. COOK	HOUSING ASSIGNMENT: CB-1250	

INSTRUCTIONS:

1. Refer to the DC-ADM 804 for procedures on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. List in Block B the specific actions you have taken to resolve this matter informally. Be sure to include the identity of staff members you have contacted.

A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages.

On November 22, 2002, I was called back to FB Unit. I was confronted by Unit Manager Mr. Everhart, and a Security SGT. I was then told to wait in Ms. Deskevich office and while I was in her office I ask her whats this about. She said wait until Mr. Everhart tell me, and she had nothing to do with whats going on. Mr. Everhart and Security SGT.(name I don't no) entered Ms. Deskevich office, immediately Mr. Everhart informed me that they received three (3) C.I. informant request slips/information stating I've been stalking, threatened and plan on taking action against Ms Deskevich. I then turn to Ms. Deskevich and ask her I f I cause her to feel threatened, afraid and/or had any problem with me. She said NO, In fact she had me help her fill out some paperwork she needed my old ceelly non-speaking english to fill out. If she felt threatened, freid, and scare of me she won't have asked me for assistance. Mr. Everhart then bring up an one and half year old misconduct report I received at Western Pen. (unauthorized use of mail) his reasoning was because of the old misconduct report. I would repeat and do it again. I was told to pack my things I'll be moving to CB Unit. Because he feel afraid for Ms. Deskevich, even though she don't feel afraid of and/or threaten by me.

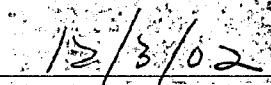
B. List actions taken and staff you have contacted, before submitting this grievance. Attach the copy of the DC-135A with the staff member's response of your informal resolution attempt.

At this meeting were presented: Mr. Everhart, Ms. Deskevich, and A security SGT.(whom name I don't no) Co.Mullen, and Regular FB unit 2 to 10 SGT. I asked why I had to move since I wasn't given an misconduct report for the allegations of the C.I. informants, nor was there any incident report, block card report, and/or any facts, evidences, and/or Ms. Deskevich herself reporting I have been stalking her or any informal meeting with me about harassing, threaten, and/or being crime / criminal charges against me.

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



Signature of Facility Grievance Coordinator



Date

WHITE - Facility Grievance Coordinator Copy CANARY - File Copy PINK - Action Return Copy GOLDENROD - Inmate Copy

① all behind of hearsay information given by C.I.informants. Because I'm being falsely accused of stalking. I'm thinking about filing Criminal Complaints against all parties involved.

About 3-4 days ago, I confronted inmate Williams about spreading vicious False rumors about me. I was told he was doing so by 6 people on FB unit. I asked him was it true he was spreading vicious rumors that I'm incarcerated for raping/murdering three (3) 60 to 70 year old women. He said no, I then said that If I hear anymore rumors about me and if I do you and I handle our business. I then showed him my status charge sheet.

I don't no for sure if inmate Williams is one of C.I.informant, but if he is, well he just used and involved FB unit State employees to help him conspire and act under the color of law against me for him. I will then be bring charges against: CO. Brown, unit manager-Mr.Everhart, Counsel-Ms.Deskevich, 6 - 2 SGT, 2 - 10 SGT, CO.Conair, and other John Doe's who I.D. is not known to me at this time.

I'm being Discriminated against by S.C.I.Houtzdale and all its State employees, Staff members, and guards.

This is the second time that staff members and guards brought up my misconduct report(It was one and half years ago) to justify why actions is being taking against me. The First was when I worked over the school building and after three (3) days I was told by security LT., and CO.Ross who hired me that I'm being terminated because of the misconduct report I received at S.C.I.- Pittsburgh. (unauthorized use of mail).

The second was on 11/22/02, When Mr. Everhart called me back to FP unit to justify his reason for moving me to CB unit, because of past one and half year ago same misconduct use before (unauthorized use of mail) against me to take unwarranted action against me.

I been at S.C.I.Houtzdale for one (1) year and haven't received no misconduct reports, bad block card, incidents reports, no bad work report, and/or any informations to warrant criminal charges against me, nor can you find anyone: staff members, guards, State employees, and inmates to say anything bad about me. (one or two persons will - take into considerations of those False accusations).

I ~~did~~ my time for misconduct report at S.C.I.Pittsburgh: 60 days D.C. and 8 month ADM.Custody.

When will this D.O.C. and its employees and S.C.I.Houtzdale stop judging me, Falsely accuse me, and discriminating against me.

OVER.

(2)

50

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

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

36698

TO: (Inmate Name & DC No.)	FACILITY	HOUSING LOCATION	GRIEVANCE DATE
Marcel Cook, AJ3114	SCI Houtzdale	CB-14	November 22, 2002

The following is a summary of my findings regarding your grievance:

Inmate Cook has filed this grievance regarding his move to C Unit from F Unit. He alleges that he was informed that he was moving to C Unit because staff had received three "C.I. Informant" request slips stating that he had been stalking, threatening and planning actions against Ms. Deskevich. He argues that he asked Ms. Deskevich if she was feeling threatened or afraid and she said "no." Cook adds that an incident from his past was used as part of this reasoning. He concludes by asking why a misconduct report had not been issued.

I personally made the decision to move Cook from the unit and informed him so. He was told that information had been received that raised concern regarding his focus on Ms. Deskevich. I had received information that he had been speaking with other inmates about his interest in her and making gestures behind her back so other inmates could see them. Also, it was reported that he had been intentionally attempting to loiter in the beverage alcove area in order to gain additional access to Ms. Deskevich's office. Staff had observed Cook attempting to loiter in the beverage alcove area and this raised concern. There was a brief discussion about the fact that Cook was transferred to this facility as a result of related activities and we wanted to avoid any problems again. At no time was there a mention of three request slips referring to threats or planned actions against this staff member. Ms. Deskevich was not asked if she was feeling threatened or afraid.

Had an actual threat been heard or substantiated, Cook would have been placed in the RHU and a misconduct report issued. This incident comes down to information received and actions observed that raise concern but do not constitute issuance of a misconduct. I decided that it was in the best interest of everyone to move inmate Cook from the unit. This alleviated the potential for nefarious behavior and addressed the concerns we had. No inmate has the right to be housed in a particular unit or cell.

This grievance is denied.

c: Superintendent McCullough
Deputy Tatum
Deputy Patrick
Major Britton
Major Barone
Ms. Emel
Ms. Deskevich
DC-15
File

12-14-02
GM

Print Name & Title of Grievance Officer	Signature of Grievance Officer	Date
Jerry L. Everhart, Corrections Unit Manager		12/11/02

IN RE: GRIEVANCE APPEAL

3

TO

SUPERINTENDENT John McCullough

SUPERINTENDENT OFF.
DEC 20 2002
SCI-HOUTZDALE
PO BOX 1000 HOUTZDALE PA

Grievance No. 36698

Date 12/11/02

APPEAL FILED Date 12-19-02

DATED RECEIVED 12-19-02 Thursday

I'M APPEALING THE DECISION OF THE
GRIEVANCE OFFICER JERRY L. EVERHART
CORRECTIONS UNIT MANAGER FROM HAVING
ANY PART OF THE INVESTIGATION COMMITTEE,
AND/OR MAKING A DECISION IN A GRIEVANCE
AGAINST HIMSELF OR OTHERS MENTIONED
IN GRIEVANCE NO. 36698 TO MAKE ANY
DECISION IN THE DC-ADM 804 PROCEDURES.

IT VIOLATES DUE PROCESS, TO HAVE
AN IMPARTIAL PERSON(S) TO MAKE ANY
DECISIONS IN A FAIR DC-ADM 804 PROCED-
URES.

I PRAY THAT YOU WILL
REVERSE DECISION AND GRANT
RESOLUTIONS MENTIONED AT GRIEVANCE
NO. 36698 FILED ON NOVEMBER 22, 2002

CC: Family

Attorney ms Banks

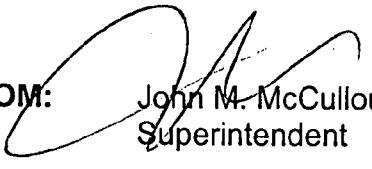
Respectfully Submitted
Marcel Cook

3 A

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Houtzdale
Office of the Superintendent
December 20, 2002

SUBJECT: Appeal of Grievance #36698

TO: Marcel Cook, AJ3114
CB-14

FROM: 
John M. McCullough
Superintendent

The unit management team acted in the best interest of all concerned. The fact is that there was information that you were saying things about a female counselor, which are inappropriate, and thus you were moved.

Grievance appeal is denied.

JMM:dkc

c: Deputy Tatum
Deputy Patrick
Major Barone
Major Britton
Ms. Emel
Mr. Everhart
Case Record
file

35

Form DC-135A INMATE'S REQUEST TO STAFF MEMBER		Commonwealth of Pennsylvania Department of Corrections										
<p>INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.</p>												
1. To: (Name and Title of Officer) <u>Superintendent John McCullough</u>	2. Date: <u>12-23-2002</u>											
3. By: (Print Inmate Name and Number) <u>Marcel COOK AJ-3114</u> <u>Marcel Cook</u>	4. Counselor's Name <u>Mr. Frantz</u>											
	5. Unit Manager's Name <u>Mr. Baer</u>											
6. Work Assignment <u>P.M. Cook</u>	7. Housing Assignment <u>CB-50</u>											
8. Subject: State your request completely but briefly. Give details. <p>I'm Appealing Grievance no. # 36698 Denied by Superintendent John McCullough. I'm Appealing For Final Review To D.O.C. P.O. Box 598 Camp Hill, PA. 17001-0598. Under Pa. Const. 65 P.S. § 66.1 thru 4 "THE RIGHT TO KNOW ACT LAW" I'm Requesting all Notes of Statements made by Ms. Deskevich, Jerry EVERHART, C.O. BROWN; Initial Report; Investigating Reports; and other's Statements of Person(s) involved in Grievance No. # 36698 "Requesting COPIES". I'm making this Request so I can prepare for my Appeal To D.O.C. Camp Hill, PA. For Final Review and without all the Statements, Reports, Investigating Reports, Initial Reports and other Information pertaining to Grievance no. 36698. I will be denied Due Process. Thank You! I have (15) days to Appeal to Camp Hill, For Final Review.</p>												
9. Response: (This Section for Staff Response Only)												
<p>If you already have everything you need to appeal to Central Office:</p> <p>John McCullough 1/1/02</p>		<table border="1"> <tr> <td>RECEIVED</td> <td></td> </tr> <tr> <td>SUPERINTENDENT OFF.</td> <td></td> </tr> <tr> <td>DEC 26 2002</td> <td></td> </tr> <tr> <td>SCI-HOUTZDALE</td> <td></td> </tr> <tr> <td>PO BOX 1000 HOUTZDALE PA</td> <td></td> </tr> </table>	RECEIVED		SUPERINTENDENT OFF.		DEC 26 2002		SCI-HOUTZDALE		PO BOX 1000 HOUTZDALE PA	
RECEIVED												
SUPERINTENDENT OFF.												
DEC 26 2002												
SCI-HOUTZDALE												
PO BOX 1000 HOUTZDALE PA												
To DC-14 CAR only <input type="checkbox"/>		To DC-14 CAR and DC-15 IRS <input type="checkbox"/>										

Staff Member Name _____ / _____ Date 12/26/02

Print

Sign

Dated:

Filed 12-30-02

Appealing For Final Review
To Central Office
Commonwealth of Pennsylvania
Department of Corrections
P. O. Box 598
Camp Hill, PA. 17001

(W)

IN RE: Appealing From Superintendent John
McCullough SCI-Hortdale decision
Denied Grievance DC-ADM 804
#no. 36698

On 11-22-02, I, Marcel J. Cook Filed a Grievance
against The Unit manager Mr. Jerry L. EVERhart,
CO. Brown, Ms. Deskevich and others involved in
Grievance # 36698 of discrimination, False Accus-
ed, and actions being taking against me without
cause to do so. I asserts as follows:

1. Discriminated against me without
cause other then using and justifying
their actions by bring up an old
misconduct report I received at SCI
Pittsburgh some 1 1/2 years ago "unauthor-
ized use of mail and correspondence".

2. I requested copies of Notes of Statements made by Ms. Deskevich, Jerry EVERhart, and CO. Brown and other's involved. Copies of initial Reports, Block Cards, work reports, investigating Reports, and all other paper works involved of Grievance No. #36698. Pursuant to Pa. Const. 65 P.S. § 65.1 thru "THE RIGHT TO KNOW ACT Law." Request was Denied
3. In order for me to be afforded an FAIR OPPORTUNITY of an Appellate right A copy or copies of all interrogations and discovery should be available to me for review so I can prepare a meaningful appeal for final review.
4. Petitioner, MR. Cook, states that because of his request and Grievance #36698 has been Denied so has his Due process and his showing of continue being judged unfairly, and discriminated, retaliated against.

Wherefore I pray this Final review be Granted at no #36698 and resolution Granted
Dated: 12-30-02

respectfully yours
Marcel Cook

6
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
2520 LISBURN ROAD, P.O. BOX 598
CAMP HILL, PA 17001-0598

THE SECRETARY'S OFFICE OF
INMATE GRIEVANCES AND APPEALS

March 7, 2003

Marcel Cook, AJ-3114
SCI Houtzdale

Re: DC-ADM 804 – Final Review
Grievance No. 36698

Dear Mr. Cook:

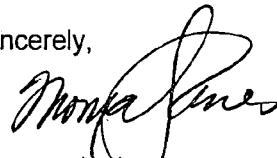
This is to acknowledge receipt of your appeal to final review of the above numbered grievance.

In accordance with the provisions of DC-ADM 804, effective May 1, 2002, I have reviewed the entire record of this grievance; including your initial grievance, the grievance officer's response, your appeal from initial review and the superintendent's response. I have also carefully reviewed the issues you raise to final review.

Upon completion of this review, it is the decision of this office to uphold the responses provided by staff at the institutional level. One basis of your appeal was that Unit Manager Everhart should not have been assigned as grievance officer since he was named in the grievance. Perhaps another unit manager or the major of unit management would have been a more appropriate choice to serve as grievance officer, however, the result would have been the same. Mr. Everhart would still have been required to provide the same information, but through another party. After considering the justification for the decision to move you to another unit, I determined that the move was appropriate. Your allegations of discrimination and false accusation have no merit.

The responses provided at the institutional level are appropriate and in accordance with Department of Corrections policies and procedures. Accordingly, your appeal to final review must be denied.

Sincerely,



Thomas L. James
Chief Grievance Coordinator

TLJ:kk

cc: Superintendent McCullough
Grievance Office
Central File

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2003 MAR 24 A 9:35

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MARCEL J. COOK,

Petitioner

v.

THE DEPARTMENT OF CORRECTIONS
et al.,

Respondents : No. 198 M.D. 2003

PER CURIAM

ORDER

NOW, March 27, 2003, upon consideration of petitioner's petition for review, and it appearing that petitioner seeks to bring an action in tort for money damages, and that this court lacks jurisdiction over this matter, Balshy v. Rank, 507 Pa. 384, 490 A.2d 415 (1985); Fawber v. Cohen, 516 Pa. 352, 32 A.2d 429 (1987), this matter is transferred to the Court of Common Pleas of Clearfield County.

The Chief Clerk shall certify a photocopy of the docket entries of the above matter and the record to the Prothonotary of the Court of Common Pleas of Clearfield County.

Miscellaneous Docket Sheet**Commonwealth Court of Pennsylvania****Docket Number:** 198 MD 2003**Page 2 of 4****April 28, 2003**

Camp Hill, PA 17011

Phone No.: (717)731-0444

Fax No.:

Receive Mail: Yes

TRIAL COURT/AGENCY INFORMATION

Court Below: Department of Corrections

County:

Division:

Date of OrderAppealed From:

Judicial District:

Date Documents Received: March 24, 2003

Date Notice of Appeal Filed:

Order Type:

Judge:

Lower Court Docket No.: Grievance No. 36698

ORIGINAL RECORD CONTENTS**Original Record Item****Filed Date****Content/Description****Date of Remand of Record:****BRIEFING SCHEDULE**

Miscellaneous Docket Sheet**Commonwealth Court of Pennsylvania**

Docket Number: 198 MD 2003
Page 3 of 4
April 28, 2003

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Exit Date	Party Type	Filed By
March 24, 2003	Petition for Review Filed		Petitioner	Cook, Marcel J.
March 24, 2003	Application to Proceed In Forma Pauperis		Petitioner	Cook, Marcel J.
	Petition for Review Informa Pauperis Motion		Petitioner	Cook, Marcel J.
March 24, 2003	Counsel's Verified Statement of Indigency		Petitioner	Cook, Marcel J.
	IFP Verified Statement		Petitioner	Cook, Marcel J.
March 27, 2003	Transfer	3/28/2003		Per Curiam
	This matter is transferred to the Court of Common Pleas of Clearfield County.			
April 28, 2003	Transfer to Court of Common Pleas			
	Clearfield County			Commonwealth Court Filing Office

SESSION INFORMATION

Journal Number:
Consideration Type:
Date Listed/Submitted:

DISPOSITION INFORMATION

Related Journal Number:		Judgment Date:	3/27/2003
Disposition Category:	Disposed Before Decision	Disposition Author:	Per Curiam
Disposition:	Transfer	Disposition Date:	3/27/2003

Dispositional Comments: This matter is transferred to the Court of Common Pleas of Clearfield County.

Dispositional Filing: Author:
Filed Date:

Docket Number: 198 MD 2003

Page 4 of 4

April 28, 2003



REARGUMENT/RECONSIDERATION/REMITTAL

Reargument/Reconsideration Filed Date:

Reargument Disposition:

Date:

Record Remitted:



Commonwealth Court of Pennsylvania

Charles R. Hostutler
Deputy Prothonotary/Chief Clerk

April 28, 2003

Irvis Office Building, Room 624
Harrisburg, PA 17120
717-255-1650

TO:

RE: Cook v. DOC et al
No. 198 MD 2003

Trial Court/Agency Dkt. Number: Grievance No. 36698
Trial Court/Agency Name: Department of Corrections

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572 is the entire record for the above matter.

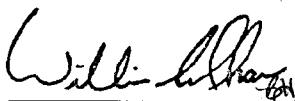
Contents of Original Record:

Original Record Item	Filed Date	Description
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Date of Remand of Record:

Enclosed is an additional copy of the certificate. Please acknowledge receipt by signing, dating, and returning the enclosed copy to the Prothonotary Office or the Chief Clerk's office.


Commonwealth Court Filing Office



Signature

WILLIAM A. SHAW

Prothonotary

My Commission Expires

Printed Name

1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

5-6-03

Date