

03-1181-CD
WILLIE EARL McCLELLAN vs. WILLIAM J. LOVE, et al

03-1181-CJ

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIE EARL McCLELLAN, :

Petitioner :

v.

:

SUPERINTENDENT LOVE et al.,

Respondents :

No. 352 M.D. 2003

PER CURIAM

ORDER

NOW, July 15, 2003, upon consideration of petitioner's petition for review, and it appearing that petitioner has failed to name the Commonwealth government or an officer thereof so as to vest this court with original jurisdiction, 42 Pa. C.S. §761; Mickens v. Jeffes, 453 A.2d 1092 (Pa. Cmwlth. 1983); Opie v. Glasgow, Inc., 375 A.2d 396, 398 (Pa. Cmwlth. 1977), this matter is transferred to the Court of Common Pleas of Clearfield County. 42 Pa. C.S. §5103.

The Chief Clerk shall transmit the record and certify a photocopy of the docket entries in this matter to the prothonotary of the Court of Common Pleas of Clearfield County.

Certified from the Record

JUL 16 2003

and Order Exit

FILED
mli:38-201
AUG 11 2003

William A. Shaw
Prothonotary/Clerk of Courts
Copy of order w/ letter
requesting 85.00 or IFP

Miscellaneous Docket Sheet**Commonwealth Court of Pennsylvania****Docket Number:** 352 MD 2003**Page 1 of 4****August 1, 2003**

Willie Earl McClellan,
Petitioner

v.
Superintendent Love and
Institutional Safety Manager
R. Reed, et al.,
Respondents

Initiating Document: Petition for Review

Case Status: Closed
July 15, 2003 Completed

Case Processing Status:

Journal Number:

Case Category: Miscellaneous CaseType: Inmate Petition for Review

Consolidated Docket Nos.:**Related Docket Nos.:****COUNSEL INFORMATION****Petitioner** McClellan, Willie Earl

Pro Se: ProSe

Appoint Counsel Status:

IFP Status:

Attorney: McClellan, Willie Earl

Bar No.:

Law Firm:

Address: DY-5981

SCI-Houtzdale, P.O. Box 1000

Certified from the Record

Houtzdale, PA 16698-1000

Phone No.:

Fax No.:

AUG - 1 2003**and Order Exit**

Receive Mail: Yes

Respondent Love, William J.

Pro Se:

Appoint Counsel Status:

IFP Status:

Attorney: Love, William J.

Law Firm:

Bar No.:

Address: SCI-Houtzdale

P.O. Box 1000

Houtzdale, PA 16698-1000

Phone No.:

Fax No.:

Receive Mail: Yes

Docket Number: 352 MD 2003

Page 2 of 4

August 1, 2003



Respondent Reed, R.

Pro Se:

Appoint Counsel Status:

IPP Status:

Attorney: Reed, R.

Bar No.:

Law Firm:

Address: SCI-Houtzdale

P.O. Box 1000

Houtzdale, PA 16698-1000

Phone No.:

Fax No.:

Receive Mail: Yes

TRIAL COURT/AGENCY INFORMATION

Court Below:

County:

Division:

Date of OrderAppealed From:

Judicial District:

Date Documents Received: May 27, 2003

Date Notice of Appeal Filed:

Order Type:

Judge:

Lower Court Docket No.:

ORIGINAL RECORD CONTENTS

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

BRIEFING SCHEDULE

.....

Miscellaneous Docket Sheet**Commonwealth Court of Pennsylvania****Docket Number: 352 MD 2003****Page 3 of 4****August 1, 2003****DOCKET ENTRIES**

Filed Date	Docket Entry/Document Name	Exit Date	Party Type	Filed By
May 27, 2003	Petition for Review Filed		Petitioner	McClellan, Willie Earl
May 30, 2003	Send Back for Correction \$40.00 or completed and returned IFP forms			Commonwealth Court Filing Office
June 5, 2003	Order Filed Respondents are directed to file an answer by 7/7/03.	6/6/2003		Per Curiam
July 11, 2003	Motion for Summary Judgment		Petitioner	McClellan, Willie Earl
July 15, 2003	Transfer Petitioner failed to name the Cmwlth Government or officer. Matter is transferred to Clearfield County Court of Common Pleas.	7/16/2003		Per Curiam
July 16, 2003	Application for Extension of Time to File NUNC PRO TUNC to answer or otherwise plead to Petition for Review.		Respondent	Love, William J.
July 22, 2003	Amended Motion for Summary Judgment		Petitioner	McClellan, Willie Earl
July 22, 2003	Answer to Application for Extension Petitioner's opposition to Motion for extension of time		Petitioner	McClellan, Willie Earl

Docket Number: 352 MD 2003**Page 4 of 4****August 1, 2003**

August 1, 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: 7/15/2003

Disposition Category:

Disposed Before Decision

Disposition Author: Per Curiam

Disposition:

Transfer

Disposition Date: 7/15/2003

Dispositional Comments:

Petitioner failed to name the Cmwlth Government or officer. Matter is transferred to Clearfile
County Court of Common Pleas.

Dispositional Filing:

Author:

Filed Date:

REARGUMENT/RECONSIDERATION/REMITTAL

Reargument/Reconsideration Filed Date:

Reargument Disposition:

Date:

Record Remitted:

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIE EARL MCCLELLAN :
v. :
SUPERINTENDENT LOVE :
and INSTITUTIONAL SAFETY :
MANAGER R. REED, Et al :
352 MD 2003

PETITION FOR REVIEW

TO THE HONORABLE JUDGE(S) OF THIS SAID COURT:

Now comes, Willie Earl McClellan, D.O.C. No. DY-5981, with a Petition for Review to ask this Honorable Court to review the decision of the Department of Corrections, DC-ADM 804-Final Review Grievance No. 43343 and the violation of the Petitioner's Rights under the Eighth Amendment of the Constitution of the United States.

JURISDICTION

This Court has Jurisdiction over this Petition for Review Pursuant to 42 Pa.C.S.A. §763, and therefore the authority to grant all relief found Right, Just and Equitable.

PARTIES

Plaintiff, Willie Earl McClellan, D.O.C. # DY-5981, is a citizen of the United States and is currently being held at SCI-Houtzdale until the Appeal's Court hears his case.

PARTIES

Defendant, Superintendent, William J. Love, person in charge of the State Correctional Institution at Houtzdale.

PARTIES

Defendant, Institutional Safety Manager, R. Reed who is in charge of the safety of everyone here at SCI-Houtzdale.

PROCEDURAL HISTORY

1. Petitioner did try unsuccessfully to make prison staff aware of the safety hazard created by the electrical cords on the floor in the cell. Unit Manager, Mr. C. L. Garman and Institutional Safety Manager decided to circumvent the safety issue of the cords from this device being placed in the cell by relating this issue to boots which would not be in the location of these electrical cords raised in this issue.

2. Petitioner filed a DC-804 Official Inmate Grievance on February 5, 2003 because of the electrical cords laying across the floor from the bottom bunk to the electrical outlet located on the wall.

3. Petitioner's Official Inmate Grievance was denied on February 6, 2003 by the Unit Manager, Mr. C. L. Garman.

4. Petitioner filed Appeal to Facility Manager on February 13, 2003 which was also denied on February 13, 2003.

5. Petitioner filed on February 16, 2003, Appeal to Secretary's Office of Inmate Grievances and Appeals.

6. Petitioner wrote a letter to Mr. Robert Bittner, Chief Examiner-Appeals on April 18, 2003 asking if a determination had been made on the Appeal filed on February 16, 2003.

7. Petitioner received letter on May 12, 2003 by

Departmental Mail dated May 6, 2003 stating:

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. The Institutional Safety Manager inspected your cell and did not find any safety violations regarding the placement of your cellmate's breathing machine.

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.

This letter was signed by Mr. Thomas L. James, Chief Grievance Coordinator.

8. Petitioner asserts that all parties on Appeal decision did not visit the cell to see if in fact that the Institutional Safety Manager's decision could be reversed.

9. Petitioner asserts that this situation was created by the Department of Corrections failure to understand that when an inmate is allowed to bring his own personal property into the Prison system for use in a confined space it is a Special Need of the inmate.

10. Petitioner asserts that the Department of Corrections should be required to have this inmate housed in a Special Needs Housing Unit (which is on B block here at Houtzdale) to insure that the use of this machine will not cause injury to other inmates by creating a hazard when used.

11. Petitioner asserts that Department of Corrections will be setting a double standard by allowing an inmate to violate the safety of another inmate to insure his own.

12. Petitioner asserts that the Department of Corrections staff told petitioner to deal with the problem or sign a cell agreement to be moved to another cell.

13. Petitioner seeks protection from Arbitrary Government Action suggested in #12 above. **Wolff v. McDonnell**, 418 US 539, 94 S.Ct. 2963 (1974)

14. Petitioner asserts that most inmates under a similar situation with the sentence that is imposed (i.e. Two Consecutive Life)on him have a single cell.

15. Petitioner asserts that he can suffer injury due to these electrical cords being across the path necessary for him to go between his bunk, toilet and the switch to control the light in the cell.

CONCLUSION

The Eighth Amendment protects against future harm to inmates is not a novel proposition of the Amendment. As we have said, requires that inmates be furnished with the basic human needs, one of which is "reasonable safety" **DeShaney**, *supra*, 489 US, @ 200, 109 S.Ct., @ 1005. It is "cruel and unusual punishment to hold convicted criminals in unsafe conditions" **Youngberg v. Romeo**, 457 US 307, 315-316, 102 S.Ct. 2452, 2457-2458, 73 L.Ed.2d 78 (1982). It would be odd to deny injunction to inmates who plainly proved an unsafe, life threatening condition in their prison on grounds that nothing yet had happen to them. **Helling v. McKinney**, 113 S.Ct. @ 2480-2481.

RELIEF SOUGHT

Wherefore, for the foregoing reasons, this Honorable Court is requested respectfully to grant the Plaintiff the following relief:

16. Petitioner request an injunction to Order the Department of Corrections to have this threat of safety removed from the confined space which is shared by him and a cellmate.

17. Petitioner request an injunction to allow the Court time to have an outside arbitrator look at the safety issue in question.

18. Petitioner request to be reimbursed for all the money spent to bring this issue to the attention of the Department of Corrections in the Grievance process and in the Court proceedings as well, once Defendants are served even prior to the injunction being Ordered by the Court.

19. Petitioner request that this Court correspond with petitioner in accordance with the DC-ADM 803, Inmate Mail and Incoming Publications Policy under section B.2,e,f,g,h & i, Privileged Correspondence.

20. Petitioner request that there be no retaliation for the filing of this Petition for Review to have the Court Order the Department of Corrections to correct the safety issue herein.

Date: May 22, 2003
Under 18 Pa.C.S.A. §4904
(unsworn statements)

Respectfully Submitted,

Willie Earl McClellan

PROOF OF SERVICE

I hereby certify that I am this day serving the foregoing Petition for Review upon the persons and in the manner indicated below, which service satisfies the requirement of Pa.R.A.P. 122:

mailed first class, certified, w/return receipt:

one (1) original & three (3) copies to:

Prothonotary Office of the
Commonwealth Court of Pennsylvania
Mr. Daniel R. Schuckers
6th Fl., S. Office Bldg.
Harrisburg, PA 17120

Certified Mail Receipt No. 7000 0600 0023 9367 0047

mailed first class, certified, w/return receipt one copy to:

Superintendent Love	Office of the
SCI-Houtzdale	Attorney General
P.O.Box 1000	16th Fl.,Strawberry Square
Houtzdale, PA 16698-1000	Harrisburg, PA 17120
Certified Mail Receipt, No. 7000 0600 0023 9367 0054	Certified Mail Receipt, No. 7000 0600 0023 9367 0108

Institutional Safety
Manager R. Reed
SCI-Houtzdale
P.O.Box 1000
Houtzdale, PA 16698-1000
Certified Mail Receipt,
No. 7000 0600 0023 9367 0078

Date: May 22, 2003
Under 18 Pa.C.S.A. sec.4904
(unsworn statements)

Respectfully Submitted,
Willie Earl McClellan
Willie Earl McClellan

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Willie Earl McClellan, :
Petitioner :
v. :
:
Superintendent Love and :
Institutional Safety Manager :
R. Reed, et al., :
Respondents : No. 352 M.D. 2003

PER CURIAM

ORDER

NOW, June 5, 2003, it is hereby Ordered as follows:

1. The above-captioned matter shall be treated as a petition for review addressed to this Court's original jurisdiction. See 42 Pa. C.S. §761; Pa. R.A.P. 1502.

2. Respondents are directed to file an answer or otherwise plead within 30 days of entry of this Order.

Certified from the Record

**JUN - 6 2003
and Order Exit**

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIE EARL MCCLELLAN :
v. : No. 352 MD 2003
SUPERINTENDENT LOVE :
and INSTITUTIONAL SAFETY :
MANAGER R. REED, Et al :
:

MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE JUDGE(S) OF THIS SAID COURT:

Now comes, Willie Earl McClellan, D.O.C. No. DY-5981, with a Motion for Summary Judgment to ask this Honorable Court for the Relief Sought in the Petition for Review filed in this Court under the above captioned case number pursuant to Rule 1532 of the Rules of Appellate Procedures.

JURISDICTION

This Court has Jurisdiction over this Motion for Summary Judgment Pursuant to 42 Pa.C.S.A. §763, and therefore the authority to grant all relief found Right, Just and Equitable.

RELIEF SOUGHT

1. Plaintiff request the Total Amount on the List of Cost to be Attached to Petition for Review that is itemized on page 2 of this Motion for Summary Judgment.
2. Plaintiff was moved from the safety hazard on June 30, 2003 by the Block Officer who worked the 2 pm to 10 pm shift.
3. Plaintiff did receive a copy of the Order dated June 5, 2003 directing Respondents to file an answer or otherwise plead within 30 days.

4. Plaintiff did not receive a reply.

5. Plaintiff did ask for this Relief in No. 18 in the Petition for Review filed with this Court.

LIST OF COST TO BE ATTACHED TO PETITION FOR REVIEW

Copies:

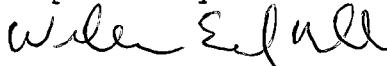
1. Exhibit "A" attached to DC-804 filed 2/5/03	\$.10
2. DC-804 attached to Appeal filed 2/13/03	.20
3. Exhibit "A", DC-804, DC-804 Pt.2 & Appeal to Facility Manager with Determination to file Appeal to Secretary's Office of Inmate Grievances and Appeals	.50
4. Postage to file Appeal above	.23
5. 60 sheets of 8½ X 11" typing paper	1.08
6. Carbon paper	.91
7. 4-postage paid envelopes	1.60
8. 9½ X 12½ envelope	.12
Postage, Certified Fee & Return Receipt Fee to send mail to:	
9. Commonwealth Court of Pennsylvania	5.80
Extra Postage, Certified Fee & Return Receipt Fee to send mail to:	
10. Superintendent Love	4.28
11. Institutional Safety Manager R. Reed	4.28
12. Office of the Attorney General	4.28
13. Fee to file Petition for Review	40.00
14. Postage, Certified Fee & Return Receipt Fee to send mail to:	
Commonwealth Court of Pennsylvania	5.34
<hr/> Total	\$ 68.72

6. Plaintiff request the Relief Sought because it is clear that the Department of Corrections did not have to burden this Honorable Court with this Petition for Review to ensure the safety of the Petitioner had they not try to circumvent this safety issue by not listening and taking no action to remove the Plaintiff from this hazard.

Wherefore, Plaintiff, Willie Earl McClellan prays this Honorable Court will GRANT this Motion for Summary Judgment in the interest of justice and for any other reason this Court deems consistent with the usages and principles of law.

Date: July 8, 2003
Under 18 Pa.C.S.A §4904
(unsworn statement)

Respectfully Submitted,


Willie Earl McClellan

PROOF OF SERVICE

I hereby certify that I am this day serving the foregoing Motion for Summary Judgment upon the persons and in the manner indicated below, which service satisfies the requirement of Pa. R.A.P. 122:

mailed first class, certified, w/return receipt:

one (1) original & three (3) copies to:

Prothonotary Office of the
Commonwealth Court of Pennsylvania

Mr. Daniel R. Schuckers

6th Fl., S. Office Bldg.

Harrisburg, PA 17120

Certified Mail Receipt No. 7001 0320 0002 0749 8128

mailed first class, one (1) copy each to:

Superintendent Love
SCI-Houtzdale
P.O.Box 1000
Houtzdale, PA 16698-1000

Office of the
Attorney General
16th Fl.,Strawberry Square
Harrisburg, PA 17120

Institutional Safety
Manager R. Reed
SCI-Houtzdale
P.O.Box 1000
Houtzdale, PA 16698-1000

Date: July 8, 2003
Under 18 Pa.C.S.A §4904
(unsworn statements)

Respectfully Submitted,
Willie Earl McClellan
Willie Earl McClellan

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIE EARL McCLELLAN

Petitioner

v.

No. 352 M.D. 2003

Superintendent Love and Institutional
Safety Manager R. Reed et al.,

Respondents

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2003 JUL 16 P 3:29

MOTION FOR EXTENSION OF TIME

Respondents, in the above-captioned matter, by and through Attorney William E. Fairall, Jr., Deputy Chief Counsel, in accordance with Pa. R.A.P. 105(b) respectfully request this Court to grant an extension of time *Nunc Pro Tunc* to answer or otherwise plead to Mr. McClellan's Petition for Review. The following is stated in support of this Motion:

1. Petitioner filed a Petition for Review raising an alleged safety hazard involving extension cords in his cell.
2. By Order dated June 5, 2003, this Court construed Mr. McClellan's Petition as one addressed to its original jurisdiction and directed respondents to reply

within thirty days.

3. This type of case is routinely delegated to the Office of Chief counsel by the Office of Attorney General; it was not assigned to an assistant counsel by Deputy chief counsel Fairall.

4. Counsel Fairall has been away from the office for various and extended periods of time due to an Angioplasty and Cardiac Rehabilitation program.

5. Mr. McClellan served a Motion for Summary Judgment on the Office of Chief Counsel on July 16, 2003.

6. Counsel respectfully requests an extension of time *nunc pro tunc* of ten days in which to respond to Mr. McClellan's Petition for Review.

7. This is the first request for an extension of time in this matter.

8. This motion is not submitted for purposes of needless delay or for the purpose of prejudicing the claim of the Petitioner, or inconveniencing the Court or Mr. McClellan.

WHEREFORE, Counsel for Respondents respectfully requests that this Court grant this motion for an extension of time *nunc pro tunc* of ten days from the date of the Order to respond to Mr. McClellan's Petition for Review.

Respectfully submitted,



William E. Fairall, Jr.

Deputy Chief Counsel- Litigation
Office of chief counsel

Pa. Department of Corrections
55 Utley Drive

Camp Hill, Pennsylvania 17001-0598
Attorney I.D. 20840

July 16, 2003

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

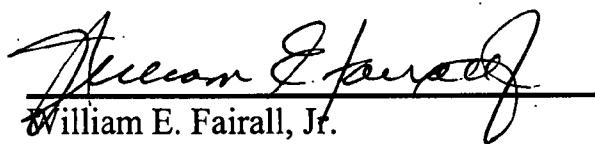
WILLIE EARL McCLELLAN :
Petitioner :
v. : No. 352 M.D. 2003
Superintendent Love and Institutional :
Safety Manager R. Reed et al., :
Respondents :

CERTIFICATE OF SERVICE

I, William E. Fairall, Jr., hereby certify that I am this day serving a true and correct copy of the foregoing Motion for Extension of Time:

Service by first class mail
addressed as follows:

Willie Earl McClellan, DY-5981
SCI-Houtzdale
P.O. Box 1000
Houtzdale, PA 16698-1000



William E. Fairall, Jr.
Deputy Chief Counsel- Litigation
Office of chief counsel
Pa. Department of Corrections
55 Utley Drive
Camp Hill, Pennsylvania 17001-0598
Attorney I.D. 20840

July 16, 2003

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIE EARL McCLELLAN :
v. : No. 352 MD 2003
SUPERINTENDENT LOVE :
and INSTITUTIONAL SAFETY :
MANAGER R. REED, Et al :
:

PETITIONER'S OPPOSITION TO
MOTION FOR EXTENSION OF TIME

TO THE HONORABLE JUDGE(S) OF THIS SAID COURT:

Now comes, Willie Earl McClellan, D.O.C. No. DY-5981, with Petitioner's Opposition to Motion for Extension of Time to ask this Honorable Court to DENY this Motion for Extension of Time and represents:

1. Petitioner was served with Respondent's Motion for Extension of Time on July 18, 2003.
2. Petitioner asserts that Mr. William E. Fairall has entered himself as Counsel to answer the Petition for Review that this Court has Jurisdiction.
3. Petitioner asserts that the first statement made by Mr. Fairall is a misrepresentation of the safety issue raised in the Petition for Review.
4. Petitioner would like the Court to be aware of the fact that yet another representative of the Department of Corrections has tried without success to circumvent the safety issue raised. There was no mention of extension cords in this Petition for Review.

5. Petitioner states that this is a clear example of why the Petition for Review had to be filed in this Court.

6. Petitioner would like this Honorable Court to hold Mr. Fairall to the penalties of 18 C.S.A. §4904 for making False Statements to Authorities.

7. Petitioner asserts that in the absence of Mr. Fairall (being a Deputy Chief Counsel) the Chief Counsel should be aware of his absence and handle any situation that arises.

8. Petitioner feels that this Motion for Extension of Time is a waste of time and in the interest of justice should not be granted with the misrepresentation of the facts.

Wherefore, Willie Earl McClellan prays this Honorable Court will DENY this Motion for Extension of Time and/or as an alternative ORDER Mr. Fairall to withdraw this Motion and submit a letter of apology to the Court and the Petitioner for trying to minimize the safety issue raised in this Petition for Review with this False Statement to Authorities.

Date: July 19, 2003
Under 18 Pa.C.S.A. §4904
(unsworn statements)

Respectfully Submitted,


Willie Earl McClellan

PROOF OF SERVICE

I hereby certify that I am this day serving the foregoing Petitioner's Opposition to Motion for Extension of Time upon the persons and in the manner indicated below, which service satisfies the requirement of Pa. R.A.P. 122:

mailed first class, certified, w/return receipt:

one (1) original & three (3) copies to:

Prothonotary Office of the

Commonwealth Court of Pennsylvania

Mr. Daniel S. Schuckers

5th fl., S. Office Bldg.

SARRISBURY, PA 17129

Certified Mail receipt No. 7001 0320 0002 0749 7923

mailed first class, one (1) copy each to:

Superintendent Love
SCI-Houtzdale
P.O. Box 1000
Houtzdale, PA 15692-1000

Office of the
Attorney General
16th Fl., Strawberry Square
Harrisburg, PA 17120

Institutional Safety
Manager R. Reed
SCI-Houtzdale
P.O.Box 1000
Houtzdale, PA 16638-1000

William E. Fairall, Jr.
Deputy Chief Counsel
Pa. Dept. of Corrections
55 Utley Drive
Camp Hill, PA 17001-0593

Date: July 19, 2003
Under 18 Pa.C.S.A §4904
(unsworn statements)

Respectfully Submitted,

Willia Earl McClellan

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIE EARL MCCLELLAN :
V. : No. 352 MD 2003
SUPERINTENDENT LOVE :
and INSTITUTIONAL SAFETY :
MANAGER R. REED, Et al :
CLM

AMENDED MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE JUDGE(S) OF THIS SAID COURT:

Now comes, Willie Earl McClellan, D.O.C. No. DY-5981, with a Amended Motion for Summary Judgment to ask this Honorable Court for the Relief Sought in the Petition for Review and the Motion for Summary Judgment filed in this Court under the above captioned case number pursuant to Rule 1532 of the Rules of Appellate Procedures.

JURISDICTION

This Court has Jurisdiction over this Amended Motion for Summary Judgment and the Motion for Summary Judgment Pursuant to 42 Pa.C.S.A. §763, and therefore the authority to grant all relief found Right, Just and Equitable.

RELIEF SOUGHT

1. Plaintiff request the Total Amount on the List of Cost to be Attached to Petition for Review that is itemized on page 2 of his Motion for Summary Judgment and these additional cost that are listed in this Amended Motion for Summary Judgment.

2. Plaintiff is now burdened with the added cost to prepare the Petitioner's Opposition to Motion for Extension of Time to respond in this Court.

3. Plaintiff additional costs to be attached to Petition for Review filed on July 11, 2003.

15.	100 sheets of $8\frac{1}{2}$ x 11" typing paper	1.80
16.	Carbon Paper	.91
17.	2- $9\frac{1}{2}$ x $12\frac{1}{2}$ envelopes	.24
	Postage, Certified Fee & Return Receipt Fee	
	to send mail to:	
18.	Commonwealth Court of Pennsylvania	5.80
	Extra Postage to send mail to:	
19.	Superintendent Love	.23
20.	Institutional Safety Manager R. Reed	.23
21.	Office of the Attorney General	.23
22.	Mr. William E. Fairall, JR.	.23
<hr/>		
	Total	\$ *9.67

4. Plaintiff ask this Honorable Court to add the \$ 9.67 total to the \$ 68.72 on the Motion for Summary Judgment for a total of \$ 78.39 as the Total Relief Sought.

5. Plaintiff also request at this time to be allowed to collect Attorney Fees for the time spent preparing the documents to have this matter presented to this Court.

Wherefore, Willie Earl McClellan prays this Honorable Court GRANT this Amended Motion for Summary Judgment to bring this lingering relentless blatant disregard of the safety issue raised to a rest.

Date: July 19, 2003

Under 18 Pa. C.S.A. §4904
(unsworn statements)

Respectfully Submitted,


Willie Earl McClellan

PROOF OF SERVICE

I hereby certify that I am this day serving the foregoing Amended Motion for Summary Judgment upon the persons and in the manner indicated below, which service satisfies the requirement of Pa. R.A.P. 122:

mailed first class, certified, w/return receipt:

one (1) original & three (3) copies to:

Prothonotary Office of the

Commonwealth Court of Pennsylvania

Mr. Daniel R. Schuckers

6th Fl., S. Office Bldg.

Harrisburg, PA 17120

Certified Mail Receipt No. 7001 0320 0002 0749 7923

mailed first class, one (1) copy each to:

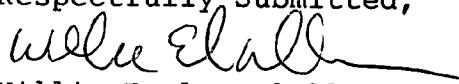
Superintendent Love
SCI-Houtzdale
P.O.Box 1000
Houtzdale, PA 16698-1000

Office of the
Attorney General
16th Fl., Strawberry Square
Harrisburg, PA 17120

Institutional Safety
Manager R. Reed
SCI-Houtzdale
P.O.Box 1000
Houtzdale, PA 16698-1000

William E. Fairall,Jr.
Deputy Chief Counsel
Pa. Dept. of Corrections
55 Utley Drive
Camp Hill, PA 17001-0598

Date: July 19, 2003
Under 18 Pa.C.S.A §4904
(unsworn statements)

Respectfully Submitted,

Willie Earl McClellan



Commonwealth Court of Pennsylvania

Charles R. Hostutler
Deputy Prothonotary/Chief Clerk

August 1, 2003

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

TO:

RE: McClellan v. Superintendent Love, et al.
No.352 MD 2003

Trial Court/Agency Dkt. Number:
Trial Court/Agency Name:

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
----------------------	------------	-------------

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

William A. Shaw
Signature

August 11, 2003
Date

William A. Shaw
Printed Name

OFFICE OF PROTHONOTARY AND CLERK OF COURTS

WILLIAM A. SHAW

PROTHONOTARY
AND
CLERK OF COURT

JACQUELINE KENDRICK

DEPUTY PROTHONOTARY

CLEARFIELD COUNTY



DAVID S. AMMERMANN

SOLICITOR

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August 11, 2003

COPY

Petition for Review

Willie Earl McClellan
DY-5981
SCI-Houtzdale
PO Box 1000
Houtzdale, PA 16651-1000

Dear Willie Earl McClellan,

This letter is in regards to your Petition for Review, originally filed with the Commonwealth Court of Pennsylvania. It has been transferred by the Commonwealth Court to the Court of Common Pleas of Clearfield County. Before your case can be acted on, you must submit either a praecipe to proceed in forma pauperis or the \$85.00 filing fee for initiating a new civil matter.

William A. Shaw
Prothonotary/Clerk of Courts

Enclosure

Clearfield County Courthouse
Office of the Prothonotary
PO Box 549
Clearfield, PA 16830