

06-668-CD
Kendall Garland vs Dept of Corrections

2006-668-CD
Kendall Garland vs Dept of Corrections et al

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY CA
CIVIL DIVISION

Kendall Garland,
Plaintiff
v.

Department of Corrections, Mr. V.
Henry, Mr. D.B. Perry and
LT. Malinich,
Defendants.

2006-668-CV

Complaint
Jury Trial Demanded

Application To Proceed In Forma Pauperis

Plaintiff in the above captioned matter, Kendall Garland, respectfully
requests permission to proceed in forma pauperis. Plaintiff certifies
that he is unable to pay for the costs of this proceeding.

Respectfully Submitted,

Kendall L. Garland
Kendall Garland
Plaintiff, Pro Se
April 25, 2006

FILED

MAY 01 2006
M 12:00 (w) *F-4*
William A. Shaw
Prothonotary/Clerk of Courts
NO C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION

Kendall Garland,
Plaintiff

v.
Department of Corrections, Ms. V.
Henry, Mr. D.B. Perry and
LT. Malinich,
Defendants.

Complaint
Jury Trial Demanded

IFP Verified Statement

Plaintiff, Kendall Garland, states under penalties provided by 18 Pa. C.S. section 4904 that:

1. I am the plaintiff in the above mentioned matter and because of my financial condition I am unable to pay the following fees and costs:

- filing fees for prosecuting this action under this Honorable Court's jurisdiction.
- other fees and costs associated with prosecuting this proceeding.

2. My responses to the questions below relating to my ability to pay the fees and costs of prosecuting a proceeding in this Honorable Court are true and correct:

(a) Are you presently employed?

(1) The plaintiff is not employed except for a prison work detail for which the plaintiff earns \$25/month. Plaintiff has been incarcerated since 2001.

(b) Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments or other service?
No income.

(c) Do you own any cash or checking or savings account? No.

(d) Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? No.

(e) List the persons, if any, who are dependent upon you for support and state your relationship to these persons. None.

(f) List all your debts and obligations. None.

3. I understand that a false statement or answer to any question in this verified statement will subject me to the penalties provided by law (misdemeanor of the second degree).

Respectfully Submitted,

Kendall L. Garland

Kendall Garland
Plaintiff, Pro Se
April 25, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION

Kendall Garland,
Plaintiff
v.

Department of Corrections, et al.,
Defendants.

Notice To Defend

You have been sued in court. If you wish to defend against the claims set forth in the following paper, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgement may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. You SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICES SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Central Pennsylvania Legal Services, Inc.
213 North Front Street
Harrisburg, PA 17101
(717) 232-0581

Public Services and Lawyer Referral Committee
Dauphin County Bar Association
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

Respectfully Submitted,

Kendall R. Garland

Kendall Garland
Plaintiff, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION

Kendall Garland,
Plaintiff

v.

Department of Corrections, Mr. V.
Henry, Mr. D.B. Perry and
LT. Malinich,
Defendants.

Complaint

Jury Trial Demanded

Preliminary Statement

Plaintiff, Kendall Garland, files this action for relief alleging denial of access to the courts, willfull misconduct or negligence and retaliation.

FACTS OF CASE

COUNT I

1. Petitioner, Kendall Garland, was issued a misconduct citation on April 11, 2004.
2. Petitioner was convicted of the misconduct on April 19, 2004.
3. Petitioner respectfully sets forth that the petitioner was placed on cell restriction as a sanction for 5 days, from April 19, 2004 to April 23, 2004.
4. Petitioner respectfully sets forth that the petitioner was prevented from obtaining supplies.
5. Petitioner was prevented from filing an amendment to a petition filed in the Pennsylvania Supreme Court (75 EM 2003) before a decision was rendered on the petition.
6. Mr. Perry also erroneously did not allow the petitioner paper supplies though previously requested.
7. The petitioner was prevented from obtaining a pen for usage until April 27, 2004.
8. Petitioner respectfully sets forth that officials were intentionally attempting to interfere with the petitioner's access to the courts.
9. Petitioner respectfully sets forth that Mr. Henry convicted the petitioner of the misconduct as an attempt to interfere with access.
10. Petitioner respectfully sets forth that the petitioner had filed an action in court and grievances that LT Malinich knew about and the petitioner would not have been issued the misconduct had the petitioner not filed an action in court and/or filed grievances. LT. Malinich issued the misconduct and Mr. Henry convicted the petitioner which also would not have occurred had the petitioner not filed grievances and a court action.
11. Petitioner respectfully sets forth that the misconduct citation was known by authorities to be false when the petitioner was essentially told to accept the resolution of the misconduct or go to the RHU.
12. Petitioner respectfully sets forth that the conviction for the misconduct was overturned.
13. Petitioner respectfully sets forth that the petitioner was denied access to the courts.
14. Petitioner respectfully sets forth all respondents were at least negligent with respect to denying the petitioner access to the courts.
15. Petitioner respectfully sets forth that the policies, procedures and customs of the Department of Corrections are responsible for the violations.
16. Petitioner respectfully sets forth that the petitioner has incurred similar violations of access to the courts and retaliation as well as others and the department of corrections has done nothing to prevent future violations.
17. Petitioner respectfully sets forth that the facts set forth in this complaint are true and correct.

Relief Requested

1. Petitioner prays that this Honorable Court issue a declaration stating that the petitioner was retaliated against, denied access to the courts and the named parties committed willful misconduct and/or were at least grossly negligent.

April 23, 2006

Respectfully Submitted,

Kendall L. Garland

Kendall Garland
Petitioner, Pro Se

Kendall Garland
FB6020
SCI Houtzdale
P O Box 1000
Houtzdale, PA 16698-1000

Kendall Garland
F86020
SCI Huntingdon
P.O. Box 1000
Huntingdon, PA 16698-1000

Office of the Prothonotary
Court of Common Pleas of Clearfield County

Re: New Complaint
Kendall Garland v. Department of Corrections, et al.

April 25, 2006

Dear Honorable Court,

Enclosed, please find an Application To Proceed In Forma Pauperis and IFP
Verified Statement and a new complaint with notice to defend.

Respectfully Submitted,

Kendall L. Garland
Kendall Garland
Plaintiff, Pro Se

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

KENDALL GARLAND,
Plaintiff

vs.

DEPARTMENT OF CORRECTIONS,
MS. V. HENRY, MR. D.B. PERRY and
LT. MALINICH,
Defendants

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NO. 06-668-CD

ORDER

NOW, this 4th day of May, 2006, the Court being in receipt of the "Complaint" from *pro se* Plaintiff Kendall Garland; upon review of the same and the Court being satisfied that the said Plaintiff's right to relief, if any, lies through the Department of Corrections and the Commonwealth Court; the Court hereby determines that the said "Complaint" is of no merit and is frivolous in nature. As such, the Plaintiff's request to proceed *In Forma Pauperis* is hereby DENIED.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED 3cc
05/05/2006 Piff
MAY 05 2006 w/IFP Denied
letter
William A. Shaw
Prothonotary/Clerk of Courts
CR

FILED

MAY 05 2006

William A. Shaw
Prothonotary/Clerk of Courts

copy

May 5, 2006

Kendall Garland
FB 6020
SCI Houtzdale
PO Box 1000
Houtzdale, PA 16698-1000

RE: In Forma Pauperis for Civil Complaint

Dear Mr. Garland:

Please be advised that your Petition to Proceed In Forma Pauperis in the above case has been denied by the Court.

You may proceed with this action by filing your Civil Complaint along with the \$85.00 filing fee with this office.

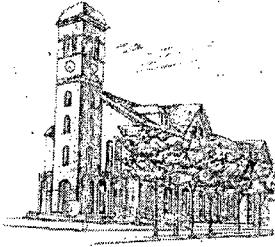
A certified copy of the Court's Order is enclosed. According to the Rules of Civil Procedure, the Prothonotary's Office may strike your filing if payment is not received in full within ten (10) working days from the date of this letter.

Sincerely,



William A. Shaw
Prothonotary/Clerk of Courts

Enclosures



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

May 19, 2006

Kendall Garland
Vs.
Department of Corrections, Ms. V. Henry,
Mr. D.B. Perry and Lt. Malinich
06-668-CD

Dear Mr. Kendall Garland:

Please be advised that the action you filed to the above term and number has been stricken effective May 19, 2006. You may not proceed with this action without good cause from the court.



William A. Shaw, Prothonotary