

STATE OF VERMONT
WASHINGTON COUNTY

FILED
2007 MAY -2 A 11: 56

BYRON MARTIN,
Plaintiff,

v.

ROBERT HOFMANN,
Defendant.

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Washington Superior Court
Docket No. 276-5-06

WASHINGTON COUNTY

DECISION

Cross Motions for Summary Judgment and Motion to Dismiss

Plaintiff Byron Martin is an inmate who seeks reimbursement from the Vermont Department of Corrections for expenses for items such as paper, pens, postage, and photocopying that he incurred related to the lawsuits that he has pursued during the years of his incarceration. Martin and the DOC have filed cross-motions for summary judgment, and the DOC also has filed a motion to dismiss. Despite both parties' voluminous filings, this case boils down to a straightforward issue.

This is a Rule 75 review of governmental action. The governmental action at issue is the DOC decision denying Martin's grievance. The request to the DOC that was grieved was Martin's generalized claim for reimbursement. He estimates that he is owed several hundred dollars. His claim is that while he was housed at various prisons, DOC policies entitled him to be provided with the named items at no expense to him because he was indigent and this did not occur; thus he sought reimbursement.

His grievance did not allege that he requested such supplies, was denied those supplies, and wishes to challenge that decision in an effort to obtain those supplies. He also does not set forth any facts suggesting that he has ever been denied effective access to courts. His grievance is explicitly based on the denial of reimbursement for the expenses he previously incurred to obtain the access to courts he has had.¹

The issue properly before the court under Rule 75 is whether the DOC abused its discretion in denying Martin's grievance on his request for reimbursement. To support his claim, Martin must show, at a minimum, a legal basis for reimbursement, facts supporting his claim to reimbursement, and circumstances showing that the DOC's denial of reimbursement amounts to an abuse of discretion warranting reversal of that denial or remand for further proceedings.

The DOC argues that Martin's interpretation of its policies are incorrect, and would not have applied to Martin when housed out of state anyway. However, even if the policies applied and Martin interprets them correctly, they simply do not govern the outcome of the governmental action under review in this case. Denial of his request for reimbursement is the issue that matters

¹ To the extent that Martin attempts to raise issues outside the scope of his grievance and the decision denying the grievance, there is no showing that he has exhausted administrative remedies.

in this case. As noted, this is not a case in which Martin asked for free supplies to which DOC policies entitled him, was denied them, grieved that denial, and now seeks review of a final DOC decision affirming the denial. Simply put, no legal basis for entitlement to reimbursement after-the-fact has been shown.

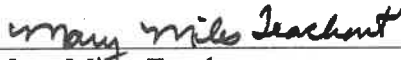
Since Martin failed to grieve any specific denial of supplies when he actually sought to obtain those supplies, the court cannot conclude that there has been any abuse of discretion in denying Martin the retrospective reimbursement relief he requested.

ORDER

For the foregoing reasons,

DOC's motion for summary judgment and motion to dismiss are *granted*;
Mr. Martin's motion for summary judgment is *denied*

Dated at Montpelier, Vermont this 2nd day of May 2007.



Mary Miles Teachout
Superior Court Judge