

VERMONT SUPERIOR COURT
Washington Unit
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CIVIL DIVISION
Case No. 25-CV-01934

Brian Butler v CoreCivic of TN

ENTRY REGARDING MOTION

Title: Motion to Dismiss (Motion: 2)
Filer: Pamela Eaton
Filed Date: July 21, 2025

The motion is GRANTED.

Petitioner Brian Butler seeks Rule 75 relief concerning the statements and attitudes of certain staff members at the Tallahatchie County Correctional Facility in Mississippi where he is currently incarcerated.

Respondent CoreCivic of Tennessee has filed the present motion to dismiss citing lack of personal jurisdiction and failure to state a claim. Respondent's motion was filed on July 21, 2025. To date, Petitioner has not filed a response or opposition. Under Rule 7, Petitioner's time to response has expired. V.R.C.P. 7(b)(4) (giving parties 30 days to respond to dispositive motions).

Respondent's motion to dismiss is premised on two grounds. The first is a lack of personal jurisdiction either general or specific over CoreCivic of Tennessee. The second is a failure to state a claim based on the lack of availability relief.

Entry Regarding Motion

Page **1** of **4**

25-CV-01934 Brian Butler v CoreCivic of TN

The Court finds the second stated basis compelling and grants Respondent's motion as follows.

The present matter arose when a CoreCivic employee allegedly made a disparaging statement regarding Vermont inmates in the Mississippi facility and threatening statements regarding Petitioner in particular. Petitioner took umbrage at the remarks and filed a grievance with the facility. The facility conducted an investigation and found that it could not confirm or prove that the employee had made the alleged statements. This investigation included interviews of six other Vermont inmates and two staff members. The investigator found that the allegations could not be corroborated through the investigation and were unsubstantiated. The facility closed the investigation and gave its findings to Petitioner. Petitioner submitted an appeal of this closure to the Commissioner of the Vermont Department of Corrections and the warden of the facility. Petitioner claims that he received no response and filed the present action.

Notwithstanding Petitioner's allegations, there does not appear to be grounds to conduct a Rule 75 appeal of the facility's actions. First, there is no evidence of harm or injury to Petitioner. Second, the events described in this matter do not involve a quasi-judicial decision or a decision made pursuant to an administrative process. Third, there is no process to this issue to review. Petitioner made a complaint. The facility investigated. The facility found insufficient grounds to take action and closed the investigation.

While Petitioner claims that the investigation was flawed and swept issues under the rug, that does not, in and of itself, fall under the scope of a Rule 75 review. As noted in Respondent's brief, there is not an absolute right to appellate review of administrative decisions. *Manson v. Thetford Sch. Bd.*, 142 Vt. 495, 498 (1983). When the legislature does not provide either process or right of appeal, then the Court must understand that the decision receives a certain degree of finality. *Id.*

Entry Regarding Motion

Page **2** of **4**

25-CV-01934 Brian Butler v CoreCivic of TN

In such cases, a party may have some recourse to review under V.R.C.P. 75, but this review is limited to procedural questions. Rule 75 review is in the nature of one of three procedures, certiorari, mandamus, or prohibitions. *Rheaume v. Pallito*, 2011 VT 72, ¶¶ 5–8. Any issue that falls outside of these three categories is not reviewable under Rule 75. *In re Town of Bennington*, 161 Vt. 573, 573–74 (1993) (mem.).

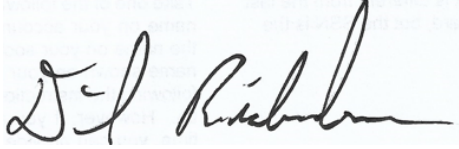
The category of certiorari applies to the judicial actions by inferior courts or tribunals. *Rheaume*, 2011 VT 72, at ¶ 8. Given that there was no judicial decision here, this category is inapplicable. Similarly, the category of prohibition, which is to prevent the unlawful assumption of jurisdiction by a tribunal contrary to common law or statutory provisions, is not applicable to the facts in this matter. *Id.* at ¶ 6. The last category of mandamus is used to enforce an agency’s performance or non-performance of existing duties. *Id.* at ¶ 7. While this category comes closest to addressing this matter, there is no obligation for Respondent to investigate in a particular manner or take particular actions after an inconclusive investigation. Such actions are ultimately discretionary, and as a result, they do not fall within the ambit of mandamus.

ORDER

Based on this, the Court finds that the issue presented, which is whether this Court has the power to review an investigation voluntarily conducted by Respondent or review the actions taken at the end of such investigation where there was no action taken to impinge or effect the rights of Petitioner. The Court finds that this issue falls outside of Rule 75, and as a result, the Court lacks the authority to review the actions of Respondent, regardless of personal jurisdiction.

Therefore, Respondent's Motion to Dismiss is **Granted**, and the present matter is **Dismissed** pursuant to V.R.C.P. 12(b)(6) for failure to state a claim on which relief can be offered.

Electronically signed on 11/5/2025 4:15 PM pursuant to V.R.E.F. 9(d)

A handwritten signature in black ink, appearing to read "D. Richardson", is written over a light blue rectangular background.

Daniel Richardson
Superior Court Judge