

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES A. WILSON,	§
	§ No. 686, 2010
Plaintiff Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
WARDEN PHILIP MORGAN, et	§ C.A. No. N10C-10-053
al.,	§
	§
Defendants Below-	§
Appellees.	§

Submitted: December 22, 2010

Decided: January 21, 2011

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 21st day of January 2011, upon consideration of the appellant's opening brief and the appellees' motion to affirm, it appears to the Court that:

(1) The plaintiff-appellant, James A. Wilson, filed an appeal from the Superior Court's October 12, 2010 order dismissing his civil complaint as legally frivolous. The defendants-appellees, Warden Philip Morgan, et al., have moved to affirm the Superior Court's judgment on the ground that

it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) The record reflects that Wilson is an inmate incarcerated at the Howard R. Young Correctional Institution (“HRYCI”). Wilson filed a complaint in the Superior Court on August 29, 2010, along with a petition to proceed *in forma pauperis* (“IFP”). While his IFP petition was granted, his complaint was dismissed as legally frivolous. In dismissing the complaint, the Superior Court stated as follows: “Alleged violations of internal discipline procedure [do] not provide a legal basis to appeal those actions to this court.”

(3) In this appeal, Wilson claims that the Superior Court erred when it dismissed his complaint as an “appeal.”

(4) The Superior Court has discretion to dismiss a complaint brought IFP where it is found to be factually frivolous, legally frivolous or malicious.² In this case, the Superior Court, while incorrectly characterizing Wilson’s complaint as an “appeal,” essentially concluded that Wilson’s claims were not legally cognizable and, therefore, should be dismissed as legally frivolous.

¹ Supr. Ct. R. 25(a).

² Del. Code Ann. tit. 10, §8803(b).

(5) We agree with the Superior Court's conclusion. Wilson's complaint alleges that his due process rights were violated when he was written up and disciplined by being moved to a segregated housing unit for bringing contraband with him when he was transferred from Sussex Correctional Institute to HRYCI. Because a prisoner has no protected liberty interest in a particular classification within the prison system and no right to a full hearing regarding a change in such classification,³ the Superior Court correctly dismissed Wilson's complaint as legally frivolous.

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

³ *Sanders v. Danberg*, Del. Supr., No. 53, 2010, Ridgely, J. (June 8, 2010) (citing *Clough v. State*, 686 A.2d 158, 159 (Del. 1996)).