

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2014 IL App (4th) 131075-U

NO. 4-13-1075

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

August 25, 2014

Carla Bender

4th District Appellate Court, IL

CLAYBORN SMITH,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
THE ILLINOIS COURT OF CLAIMS,)	No. 12MR996
Defendant-Appellee.)	
)	Honorable
)	John Schmidt,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Knecht and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the circuit court did not err in dismissing plaintiff's petition for a writ of *certiorari* where plaintiff had no property interest in prices charged for prison commissary and, thus, was not entitled to due process.

¶ 2 In October 2012, Clayborn Smith, plaintiff, filed a petition for a writ of *certiorari* in the Sangamon County circuit court, asking the court to find the Illinois Court of Claims, defendant, violated his due-process rights by dismissing his complaint for monetary damages accrued from paying unlawfully inflated commissary prices during his incarceration. In November 2013, the circuit court dismissed Smith's petition.

¶ 3 Smith appeals, asserting the circuit court erred in dismissing his petition for a writ of *certiorari*. We affirm.

¶ 4

I. BACKGROUND

¶ 5 In January 2010, after exhausting the inmate-grievance procedures, Smith filed a property-damage form in the Court of Claims, seeking \$250 he was allegedly overcharged due to an unlawful increase in commissary prices in breach of section 3-7-2a of the Unified Code of Corrections (Unified Code) (730 ILCS 5/3-7-2a (West 2010)). On an unknown date, the Attorney General filed a motion to dismiss Smith's claim pursuant to section 2-619 of the Code of Civil Procedure (Civil Code) (735 ILCS 5/2-619 (West 2010)), asserting (1) the Court of Claims had no authority to issue an injunction ordering the Department of Corrections (DOC) to comply with a statute, and (2) Smith had no private cause of action under the Unified Code and the Illinois State Auditing Act (30 ILCS 5/1-1 to 6-5 (West 2010)), citing *Lindwall v. State*, 10 CC 3789, which was attached to the motion as exhibit A. In June 2011, the Court of Claims dismissed Smith's claim because (1) Smith lacked "a cause of action, as the [Unified Code] and the Illinois State Auditing Act fail to provide [Smith] with any private cause of action," and (2) the Court of Claims lacked authority to issue injunctive orders.

¶ 6 In January 2012, Smith filed a petition for rehearing, asserting he had a property interest in his prison funds that entitled him to due process. In August 2012, the Court of Claims denied Smith's petition for rehearing, finding Smith failed to demonstrate the court misapprehended or overlooked points of law in its original order.

¶ 7 In October 2012, Smith filed a petition for a writ of *certiorari* in the circuit court, asserting the Court of Claims wrongly dismissed his complaint. In his petition, Smith asserted the Court of Claims, by dismissing his claim, violated his right to due process regarding his property interest in his inmate account. Smith then asked, in part, for the circuit court to compel

the Court of Claims to provide him with due process or, in the alternative, make substantive findings on Smith's claim.

¶ 8 In April 2013, the Court of Claims filed a combined motion to dismiss pursuant to section 2-619.1 of the Civil Code (735 ILCS 5/2-619.1 (West 2012)). Under section 2-615, the Court of Claims asserted Smith failed to state a cause of action because the Court of Claims lacked jurisdiction to issue an injunction. The Court of Claims also stated Smith had an opportunity to be heard, which contradicted his claim that he did not receive due process. Under section 2-619, the Court of Claims argued Smith's claim for declaratory damages was barred by sovereign immunity.

¶ 9 Following a November 2013 telephone conference, the circuit court dismissed Smith's petition for the reasons set forth in the Court of Claim's motion to dismiss.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, Smith asserts the circuit court erred in dismissing his petition for writ of *certiorari*, arguing the Court of Claims improperly dismissed his claim without first affording him due process. The Attorney General, in turn, asserts the circuit court properly dismissed the complaint because the Court of Claims afforded Smith all the process he was due since he has no life, liberty, or property interest at stake in prison-commissary prices that entitles him to due process.

¶ 13 A. Standard of Review

¶ 14 We review *de novo* a dismissal pursuant to section 2-619.1 of the Civil Code. *Wilson v. City of Decatur*, 389 Ill. App. 3d 555, 558, 906 N.E.2d 795, 798 (2009). In so doing, we accept any well-pleaded facts as true and construe any reasonable inferences drawn from

those facts in favor of the nonmoving party. *Morris v. Harvey Cycle & Camper, Inc.*, 392 Ill. App. 3d 399, 402, 911 N.E.2d 1049, 1053 (2009). We may affirm on any basis supported by the record. *Jandeska v. Prairie International Trucks, Inc.*, 383 Ill. App. 3d 396, 398, 893 N.E.2d 673, 675 (2008).

¶ 15 B. Writ of *Certiorari*

¶ 16 The Court of Claims Act (Act) (705 ILCS 505/1 to 29 (West 2012)) created an exception to the doctrine of sovereign immunity by allowing a party to bring monetary claims against the State in the Court of Claims. *Reichert v. Court of Claims*, 389 Ill. App. 3d 999, 1002, 907 N.E.2d 930, 933 (2009). Because the Act does not provide a method for review of decisions from the Court of Claims, *certiorari* is available to address claims of alleged due-process violations by the Court of Claims. *Reichert v. Court of Claims*, 203 Ill. 2d 257, 261, 786 N.E.2d 174, 177 (2003); see also *Klopper v. Court of Claims*, 286 Ill. App. 3d 499, 502-03, 676 N.E.2d 679, 682 (1997).

¶ 17 When an inmate files a petition for *certiorari*, the circuit court acts as a court of review. *Reichert*, 203 Ill. 2d at 260-61, 786 N.E.2d at 177. "The purpose of *certiorari* review is to have the entire record of the inferior tribunal brought before the court to determine, from the record alone, whether the tribunal proceeded according to applicable law." *Id.* at 260, 786 N.E.2d at 177. In conducting a *certiorari* review, the circuit court determines only whether the complaining party received due process, that is, the right to adequate notice and an opportunity to be heard. *Id.* at 261, 786 N.E.2d at 177. "A petition for *certiorari* relief is properly denied if the court finds that the plaintiff cannot prevail or that he is not entitled to the review he seeks." *Lake v. State of Illinois*, 401 Ill. App. 3d 350, 353, 928 N.E.2d 1251, 1255 (2010) (citing *Tanner*

v. Court of Claims, 256 Ill. App. 3d 1089, 1092, 629 N.E.2d 696, 699 (1994)). Thus, our review is limited to whether the Court of Claims deprived Smith of due process.

¶ 18

C. Due Process

¶ 19 To establish a right to due process, the complaining party must demonstrate a life, liberty, or property interest in the outcome of the proceeding. *Webb v. Lane*, 222 Ill. App. 3d 322, 326, 583 N.E.2d 677, 681 (1991). In other words, we must first determine what process, if any, was due to Smith before addressing whether he received that process.

¶ 20

Smith asserts he has a property interest in prison-commissary fees, thus establishing a need for due process. In so arguing, he relies upon cases such as *Webb*, 222 Ill. App. 3d 322, 583 N.E.2d 677; *Parratt v. Taylor*, 451 U.S. 527 (1981), *overruled on other grounds* by *Daniel v. Williams*, 474 U.S. 327 (1986); and *Campbell v. Miller*, 787 F.2d 217 (7th Cir. 1986), to demonstrate he has a property interest in DOC's commissary prices. However, we note those cases involve issues of confiscated property, not the right to certain commissary prices, and are therefore distinguishable from the present case.

¶ 21

Conversely, the Attorney General cites *Jackson v. Randle*, 2011 IL App (4th) 100790, 957 N.E.2d 572, to demonstrate inmates have no standing or right to due process regarding commissary prices under the Unified Code. *Jackson* is legally and factually similar to the present case. In that case, an inmate sought to challenge commissary prices that did not conform to the standards set forth in section 3-7-2a of the Unified Code. *Id.* ¶ 5, 957 N.E.2d 572. This court affirmed the circuit court's dismissal of the inmate's complaint, stating:

"DOC regulations and the Unified Code were designed to provide guidance to prison officials in the administration of prisons, not to create more rights for inmates than those

that are constitutionally required. Inmates have a constitutional right to adequate water, shelter, food, drinking water, clothing, sanitation, and medical care, personal safety, reasonable access to courts, and the reasonable opportunity to exercise religious freedom." *Id.*

¶ 17, 957 N.E.2d 572.

This court then concluded section 3-7-2a of the Unified Code did not confer standing on inmates to challenge DOC's commissary prices. *Id.* "Prisoners *** do not have constitutionally protected 'rights' to commissary items at a specified price, and section 3-7-2a does not somehow magically create one." *Id.* In other words, because an inmate, like Smith, has no life, liberty, or property interest in the cost of commissary items, he cannot establish he has a right to due process. Because Smith has failed to establish a right to due process, he fails to state a claim for *certiorari* relief. Thus, we agree with the Attorney General that the circuit court did not err in dismissing Smith's writ of *certiorari*.

¶ 22

III. CONCLUSION

¶ 23 For the foregoing reasons, we affirm the circuit court's judgment.

¶ 24 Affirmed.