IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Miguel Jose Garcia, Appellant	:	
v.	:	No. 1631 C.D. 2012
	:	Submitted: June 7, 2013
Pennsylvania Board of Probation and Parole, Ms. Viglione (P.B.P.P.), Mr. Parker (P.B.P.P.), John E. Wetzel (D.O.C. Secretary), Dorina Varner (S.O.I.G.A.), David W. Pitkins (Superintendent), Raymond Moore (D.S.F.M), John Cree (Unit Manager) Mike Wilson (Unit Counselor)	:	

BEFORE: HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE P. KEVIN BROBSON, Judge
HONORABLE ANNE E. COVEY, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE BROBSON **FILED: September 11, 2013**

Appellant Miguel Jose Garcia (Garcia) appeals from an order of the Court of Common Pleas of Somerset County (trial court). Garcia filed a Complaint against (1) the Pennsylvania Board of Probation and Parole (Board); (2) two Board employees, named only by their surnames, Ms. Viglione and Mr. Parker; (3) two administrative officials of the Department of Corrections (DOC);[1]

[1] The two officials are the Secretary of DOC John E. Wetzel and Chief Grievance Officer Dorina Varner. We note here that Garcia did not name DOC as a defendant.

(4) David W. Pitkins, Superintendent of the State Correctional Institution at Laurel Highlands (SCI-Laurel Highlands); (5) Raymond Moore, Deputy Superintendent for Facilities Management; and (6) two employees of SCI-Laurel Highlands, Unit Manager John Cree and Counselor Mike Wilson. The Complaint consists primarily of claims arising under 42 U.S.C. § 1983 and seeks equitable and declaratory relief, as well as damages. The two defendant groups, the Board and DOC, filed preliminary objections to the Complaint. Garcia appeals from the order of the trial court, which dismissed the Complaint with prejudice based upon the trial court's resolution of the preliminary objections. We affirm the order of the trial court.

BACKGROUND

A. Allegations Against DOC

Garcia, who is an inmate at SCI-Laurel Highlands, asserted the following pertinent facts in the Complaint. On August 31, 2011,[2] Cree and Wilson interviewed, or "staffed", Garcia for the purpose of considering whether to recommend to the Board that it grant Garcia parole. Garcia averred that he had completed all programs in which DOC required him to participate and that he had received above average work reports and average housing reports, and that he had not committed any misconducts since 2008.

During the interview, Cree asked Garcia to describe his crime. Garcia averred that during his previous parole interview, staff concluded that he

[2] Garcia references a date of October 31, 2011, but various exhibits Garcia attached to his preliminary objections to the Board's and DOC's preliminary objections make clear that DOC conducted institutional "staffing" on August 31, 2011.

minimized his crime in his oral recitation. Consequently, Garcia averred, in order to avoid minimizing his crime again, he informed Cree that he would provide a written, rather than oral, description of his crime. Cree insisted that Garcia orally provide a description of his crime, and Garcia complied.

Garcia averred that Wilson, without explanation, later informed Garcia that he did not receive an institutional recommendation for parole. Garcia sent an inmate request slip to Cree, asking why he was denied an institutional recommendation for parole, and Cree indicated only that Garcia was not a good candidate for parole. Garcia filed a grievance against Cree, contending that (1) Cree should have explained why Garcia was denied a recommendation; (2) Cree improperly condoned Wilson's conduct as Garcia's counselor in failing to respond to Garcia's request slips for six months and refusing to prepare and submit "documents for post minimum pre-release and outside clearance;" (3) Cree refused to provide Garcia with a copy of the "staffing" paper; and (4) Cree allegedly failed to train Wilson properly.

Garcia averred that he submitted correspondence regarding Cree's and Wilson's alleged misconduct to DOC. Garcia averred that Deputy Superintendent Moore denied his grievance, indicating to Garcia that the allegations in his grievance against Wilson were found to be frivolous and redundant. Garcia averred that the investigation DOC employees conducted with regard to the grievance was invalid because the employees investigated DOC's denial of institutional parole recommendation for the previous year, rather than for the then-present year. Garcia appealed the grievance denial to Superintendent Pitkins, who denied the appeal, noting that it is a privilege (not a right) to know the reasons

for DOC's denial of a positive parole recommendation.[3] In December 2011, DOC's Central Office Chief Grievance Officer Varner rejected Garcia's appeal of SCI-Laurel Highlands' denial of his grievance. In that decision, Chief Grievance Officer Varner concluded that inmates are not entitled or allowed to receive a copy of the recommendation vote sheet.

In essence, the Complaint challenges and seeks relief related to the fact that DOC and its officers and/or employees did not provide a positive recommendation for parole, did not perform duties associated with potential pre-release and outside work clearance, and did not address Garcia's grievances and correspondence in a manner that satisfied Garcia.

B. Allegations Against the Board and Its Employees

With regard to the Board and Board-related defendants, Garcia alleged that Board employees Viglione and Parker interviewed him on January 10, 2012, for parole eligibility. Garcia averred generally that Viglione and Parker ignored the substance of his plea agreement, which he contends called for him to plead guilty to a number of crimes, but to admit guilt only to an aggravated assault charge. Garcia averred that Viglione and Parker rejected Garcia's claim that a conflict of interest existed with regard to a district attorney, who Garcia claims was "instrumental" in his prosecution. Garcia claims that the victim in the

[3] Thereafter, Garcia filed a mental abuse complaint with DOC's Office of Professional Responsibility against Cree and Wilson. Garcia contends that he suffered from shingles, which medical personnel told him could be a result of stress. Garcia appears to relate his physical and mental condition to his allegations that Wilson yelled at him during a parole interview and allegedly said that he "did not like inmates who sent complaints to the Central Office 'snitching' on the staff at the institution." (Complaint ¶ 31.)

case was the ex-spouse of the district attorney. Garcia averred that Viglione and Parker responded to his claims by concluding that he was minimizing his crime. Garcia specifically averred that he submitted a parole application with exhibits, which he claims substantiated his assertion regarding the alleged conflict of interest. In other words, he apparently attempted to repudiate the process by which he was convicted, which, of necessity, included all of the crimes to which he pleaded guilty as well as the crime to which he affirmatively admitted guilt.

Garcia characterized Viglione and Parker's conduct as "conducting their own trial." (Complaint ¶ 40.) Garcia also asserted that Parker was verbally abusive and wrongfully accused Garcia of exhibiting a poor attitude toward Viglione. Garcia essentially claimed that Parker's treatment of Garcia during the interview caused him to become shocked and confused and prevented him from capably responding to questions because he could not concentrate, and he became nervous and speechless.

In summary, Garcia claimed that the actions of the Board defendants denied him rights that are constitutional in nature, namely the right to an "untainted" parole hearing. Garcia requested affirmative injunctive relief, relating to the manner and process by which DOC and the Board conduct and consider parole matters, declaratory relief in the nature of a declaration that DOC and the Board's parole practices violate Garcia's constitutional rights, and compensatory and punitive damages.

C. The Board's Preliminary Objections

The Board's preliminary objections to the Complaint consisted of the following contentions: (1) this Court, rather than the trial court, had subject matter jurisdiction over the Complaint; (2) Viglione and Parker enjoyed absolute

immunity from suit as officials who were engaged in the parole decision-making process by making a recommendation to the Board; (3) the Complaint failed to state a cause of action under 42 U.S.C. § 1983; (4) the Complaint failed to state a cause of action regarding the Board's refusal of parole because a decision to deny parole is not subject to judicial review; and (5) the state tort claim in the Complaint should be dismissed based on sovereign immunity.

D. DOC's Preliminary Objections

DOC's preliminary objections consisted of demurrers. First, DOC demurred to the claims against Superintendent Pitkins, Deputy Superintendent Moore, Secretary Wetzel, and Chief Grievance Officer Varner for their alleged failure to respond to or act on his grievances and correspondence. DOC asserted that the failure to process a grievance properly does not provide support for a claim that a constitutional violation occurred. Additionally, DOC asserted that an official's receipt of correspondence claiming that an employee of DOC has violated an inmate's civil rights is insufficient to state a cognizable claim. On the basis of these arguments, DOC requested that the trial court dismiss the claims against Moore, Wetzel, Pitkins, and Varner, with prejudice.

DOC also demurred to Garcia's claims that Wilson violated Garcia's civil rights by allegedly retaliating against him because of grievances Garcia filed. DOC asserted that Garcia's factual pleadings were insufficient, because he failed to identify specific details regarding an alleged second interview he had with Wilson and Cree. Further, with regard to Garcia's claims relating to DOC's alleged denial of pre-release or outside clearance, DOC asserted that Garcia failed to set forth facts indicating that any such decision was not supported by legitimate penological purposes. DOC also asserted that Garcia failed to plead facts in

support of a claim against Cree for retaliation with respect to DOC's denial of pre-release or outside clearance.

With regard to claims relating to the denial of an institutional recommendation for parole, DOC asserted that inmates do not have any right to a favorable recommendation and that no legal authority dictates the manner by which DOC must conduct its staffing process for parole recommendation purposes. Moreover, DOC contended, there is absolutely no support for the proposition that an inmate has a right to know why staff denied a favorable recommendation. DOC also pointed out that DOC recommendations are not binding on the Board's parole decision.

As to Garcia's alleged negligence and intentional tort claims, DOC asserted that it was immune from suit based on sovereign immunity and also that the Complaint failed to state causes of action for such alleged torts. With regard to Garcia's civil rights claims, including those asserting causes of action for violations of the equal protection clause, the privilege against self-incrimination, due process, and conspiracy, DOC asserted that (1) Garcia failed to plead facts suggesting any disparate treatment from similarly situated inmates, and (2) the privilege against self-incrimination only applies in instances where a compulsion to speak against one's interests could incriminate the person in future criminal proceedings and is also a privilege that a person must invoke in custodial interrogations while such interrogations are occurring. DOC asserted that with regard to Garcia's due process claims, inmates do not have a protected interest in parole until the inmate actually is released on parole. Finally, with regard to Garcia's civil rights claim suggesting that a conspiracy existed, DOC asserted that Garcia failed to set forth a prima facie civil conspiracy claim.

With regard to Garcia's alleged physical and emotional injuries, which he claimed led to an outbreak of shingles, DOC asserted that Garcia's remedies were limited by Section 6603(a) of the Pennsylvania Prison Litigation Reform Act (PLRA), 42 Pa. C.S. § 6603(a),[4] to remedies available under federal law, when the underlying claims are based on alleged violations of federal law. Thus, DOC contended that in bringing claims under the due process clause, equal protection clause, and the privilege against self-incrimination, Garcia could not seek relief under federal law for mental or emotional injuries sustained in custody unless he made a prior showing of *physical injury*. In this case, however, DOC argued, Garcia's physical injury—his shingles—post-dated his alleged mental and emotional injuries.

E. The Trial Court's Order and Opinion

The trial court issued an order sustaining all preliminary objections in general. Garcia filed a notice of appeal from the order, and the trial court directed Garcia to file a concise statement of matters complained of on appeal. In its opinion issued under Pa. R.A.P. 1925(a), the trial court concluded that, with regard to the Board and the Board-related defendants, the topic of the interview Viglione and Parker conducted, namely investigation of the circumstances of Garcia's offenses, were subjects properly reflected in the Board's ultimate decision denying parole. The trial court also rejected Garcia's claim that the Board violated the ex

[4] Section 6603(a) of the PLRA provides that "[p]rison conditions litigation filed in . . . a court of this Commonwealth alleging . . . a violation of Federal law shall be subject to any limitations on remedies established by Federal law or Federal courts with respect to the Federal claims."

post facto clause of the United States Constitution[5] by allegedly applying provisions of the law commonly referred to as the Prisons and Parole Act (Act), 61 Pa. C.S. §§101-6309 (which became effective October 13, 2009, after Garcia was sentenced) and new parole decision guidelines, rather than former Section 19 of the Act[6] and guidelines that were in effect at the time he was sentenced for his crimes. Finally, the trial court also concluded that this Court has subject matter jurisdiction over the claim in the Complaint against the Board.[7]

With regard to DOC's preliminary objections, the trial court agreed with the DOC defendants' argument that the Complaint failed to supply sufficiently detailed factual averments to apprise those defendants of the facts

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[5] Article I, Section 10 of the United States Constitution provides, in pertinent part, that "[n]o state shall . . . pass any . . . ex post facto Law."

[6] Act of August 6, 1941, P.L. 861, *as amended*, 61 P.S. § 331.19, *repealed by* the Act of August 11, 2009, P.L. 147.

[7] With regard to the issue of subject matter jurisdiction, we conclude that the trial court erred. In *Rank v. Balshy*, 475 A.2d 182 (Pa. Cmwlth. 1984), *affirmed*, 507 Pa. 384, 490 A.2d 415 (1985), this Court concluded that the particular court of common pleas had jurisdiction over a complaint raising a claim under Section 1983 against the Commonwealth, the State Police, and numerous individual officers who the plaintiff contended had committed civil rights violations against him. *Balshy*, 475 A.2d at 184. We also recognize our Supreme Court's decision in *Stackhouse v. Commonwealth, Pennsylvania State Police*, 574 Pa. 558, 832 A.2d 1004 (2003). In *Stackhouse*, the Supreme Court, in a plurality decision, acknowledged the difficulty that may sometimes exist in determining whether this Court or a court of common pleas has jurisdiction when a plaintiff seeks both damages and equitable relief. We cannot summarily conclude that Garcia included a damages claim solely for the purpose of seeking a different forum to address his equitable claims. The Complaint includes a request for relief of over $400,000 in compensatory and punitive damages. Consequently, because Garcia's claim is for both damages in tort and equitable relief, we conclude that the trial court had jurisdiction over the claims in the Complaint. Moreover, if the trial court had been correct regarding jurisdiction, the proper step would have been to transfer the matter to this Court, not to discuss it on preliminary objections. 42 Pa. C.S. § 5103(a).

giving rise to Garcia's claims. The trial court concluded that facts Garcia pleaded with regard to Pitkins, Moore, Wetzel, and Varner simply stated circumstances relative to their roles in responding to Garcia's grievances and correspondence and that those averments did not implicate any constitutional rights. The trial court also concluded that Garcia failed to plead a civil rights claim for retaliation, noting that Garcia failed to demonstrate a constitutional right to an institutional recommendation for parole. Finally, the trial court concluded that an inmate's demeanor in representing the nature of his crime in the course of an interview for parole recommendation is a factor for the staffing personnel to consider, and that denial of a recommendation for parole provides no right for an inmate to an explanation of a refusal to recommend an inmate for parole.[8]

DISCUSSION

Garcia argues that the trial court erred by concluding that he did not state a prima facie claim under the ex post facto clause. As the trial court noted, other than arguing in conclusory fashion that the parole decision making guidelines changed and that application of the guidelines consequently increased the measure of punishment imposed upon him, Garcia has not pleaded any facts that would demonstrate that he would have been granted parole under the former provisions. *Sheffield v. Dep't of Corr.*, 894 A.2d 836, 843 (Pa. Cmwlth. 2006), *affirmed*,

[8] This Court's standard of review of a trial court's order sustaining preliminary objections to a complaint is limited to considering whether the trial court erred as a matter of law or committed an abuse of discretion. *Muncy Creek Twp. Citizens Comm. v. Shipman*, 573 A.2d 662, 663 (Pa. Cmwlth. 1990). In considering whether a trial court properly sustained preliminary objections, this Court accepts as true all well-pled facts and all inferences reasonably deducible therefrom. *Cowell v. Dep't of Transp.*, 883 A.2d 705 (Pa. Cmwlth. 2005).

594 Pa. 56, 934 A.2d 1161 (2007). Consequently, we conclude that the trial court did not err in rejecting Garcia's ex post facto claim. *See also Farmer v. McVey*, 448 Fed. Appx. 178 (3d Cir. 2011).[9]

Next, Garcia claims that the trial court erred in dismissing his claim that Board employees Viglione and Parker violated his Fifth Amendment privilege against self-incrimination by allegedly attempting to coerce an "admission of guilt" regarding the crimes for which he pleaded guilty but did not admit guilt. This claim has no merit. Garcia appears to assert at page 14 of his brief that at the time he entered the plea agreement, he was not informed regarding the significance of pleading guilty to all the crimes identified. This allegation does not appear in Garcia's Complaint. In essence, Garcia is attempting to attack his sentence by challenging the validity of the plea bargain. Garcia, however, never previously challenged the validity of the plea agreement. Garcia has pointed to no legal authority that supports the proposition that an inmate alleging improprieties with

[9] Moreover, as the trial court noted, Garcia already presented this issue to the Court in a distinct mandamus proceeding, *Garcia v. Pennsylvania Board of Probation and Parole*, (Pa. Cmwlth., No. 185 M.D. 2011, filed September 12, 2011) (per curiam order) (*Garcia*), *petition for allowance of appeal filed* September 30, 2011. In that single-judge per curiam order, the Court stated that the reasons the Board provided in its then-most recent parole denial decision "were not only permissible considerations, but statutorily required considerations. 61 Pa. C.S. § 6135; *Evans v. Pennsylvania Bd. of Probation and Parole*, 820 A.2d 904 (Pa. Cmwlth. 2003) [*appeal denied*, 580 Pa. 550, 862 A.2d 583 (2004)]." *Garcia* at 1. With regard to his ex post facto clause argument, we stated that Garcia had "not pleaded facts showing that changes to the Act and policy, by their own terms, pose a significant risk of prolonging his incarceration. *Cimaszewski v. Pennsylvania Bd. of Prob. and Parole*, [582 Pa. 27,] 868 A.2d 416 (2005); *Loomis v. Pennsylvania Bd. of Prob. and Parole*, 878 A.2d 963 (Pa. Cmwlth. 2005)." *Garcia* at 2. An inmate who alleges that the Board violated the ex post facto clause must also demonstrate that he would have been granted parole under the law and standards in effect before his sentencing in 1996. *Sheffield*, 894 A.2d at 842.

regard to the parole decision process may collaterally attack a bargained-for plea agreement in a challenge to parole proceedings. Our research has disclosed no cases in which courts have permitted collateral attacks on plea bargains under these circumstances. *See Wolak v. Pennsylvania State Police*, 898 A.2d 1176, 1181 (Pa. Cmwlth.), *appeal denied*, 588 Pa. 787, 906 A.2d 546 (2006) (collateral attack on plea agreement and sentence not appropriate in appeal from denial of gun permit). Accordingly, we reject his claim seeking to attack the Board's action by challenging (1) his plea agreement and (2) the request of Viglione and Parker that Garcia discuss his complete criminal record, including all of the crimes to which he pleaded guilty.[10]

Garcia next argues that the Board and its employees relied upon "subjective statements" in rendering the Board's decision denying parole and, thereby, violated his due process rights. Garcia also contends that the Board's decision indicates that it considered elements not mentioned in the former provisions of the Act, including the following factors: (1) reports, evaluations, and assessments/level of risk indicative of risk that Garcia would pose a risk to the community; (2) failure to demonstrate motivation for success; (3) refusal to accept responsibility for offenses committed; and (4) lack of remorse for the offense committed. (Garcia's Brief at 15; *see also* Complaint ¶ 51.) The trial court concluded that the matters to which Garcia objected were precisely the type of

[10] We also note that Garcia has included no discussion regarding the distinction between crimes to which a person has pleaded guilty and crimes to which a person has pleaded guilty and also admitted guilt. The general rule of law is that "a guilty plea constitutes an admission to all of the facts averred in the indictment." *Dep't of Transp. v. Mitchell*, 517 Pa. 203, 212, 535 A.2d 581, 585 (1987). As discussed above, one of the Board's tasks in considering a parole request is to evaluate an inmate's entire criminal history. Garcia's argument is completely devoid of merit.

considerations which the Act calls upon the Board to consider in making a parole decision.

As this Court has repeatedly held, the granting of parole by the Board is generally a matter of grace.[11] Inmates do not have a constitutional right to parole.[12] The General Assembly provided the Board with broad discretionary powers, recognizing that the Board, in considering applications for parole, must evaluate a variety of factors, including an inmate's entire criminal history. Under the former provision of the Act, the Board was vested with the *duty* to "to consider the nature and circumstances of the offense committed [and] the general character and background of the prisoner," and to investigate "the conduct of the person while in prison and his physical, mental and behavior condition and history . . . and his complete criminal record." 61 P.S. § 331.19. Under the present provisions regarding the Board's investigation of the "circumstances of offense," 61 Pa. C.S. § 6135, the Board may investigate and consider the following factors: (1) the nature and circumstances of the offense committed; (2) recommendations made by the prosecuting attorney; (2) the general character and background of the inmate; (4) victim statements; (5) sentencing hearing notes; and (6) "[t]he conduct of the person while in prison and his physical, mental and behavioral condition and

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[11] While noting this general principle, the Court in *Evans*, citing our Supreme Court's decision in *Coady v. Vaughn*, 564 Pa. 604, 770 A.2d 287 (2001), also recognized "that where the Board increases a penalty by applying a new law," the prohibition contained in the ex post facto clause against increases in penalties may be triggered. *Evans*, 820 A.2d at 909 (citing *Coady*, 564 Pa. at 608-609, 770 A.2d at 289-290).

[12] In *Greenholtz v. Inmates of the Nebraska Penal and Correction Complex*, 442 U.S. 1, 11 (1979), the United States Supreme Court held that "[t]here is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence."

history . . . and his complete criminal record." We see no inconsistency between the factors the Board considered and those addressed in either the former or present versions of the Act.

Contrary to Garcia's contention that the Board erroneously considered subjective standards, the fact that the law permits the Board to consider standards and exercise discretion in evaluating the totality of the circumstances does not make the elements unconstitutionally subjective. In *Farmer*, the United States Court of Appeals for the Third Circuit rejected a similar due process claim in an inmate's Section 1983 action against several members of the Board. The Court of Appeals recognized that while inmates have a right to have the Board give fair consideration to their claims, when an inmate is given "notice, an opportunity to be heard, or fair consideration of his parole request," due process is not offended. *Farmer*, 448 Fed. Appx. at 181. For the reasons expressed above, we conclude that the Board did not violate Garcia's due process rights.

Garcia next argues that the trial court erred in concluding that the individual defendants enjoy sovereign immunity from suit. Garcia argues that our General Assembly created exceptions to sovereign immunity which render the individual defendants vulnerable to his claims of intentional or negligent torts. Garcia is incorrect, however, because he relies upon Section 8550 of the Judicial Code, 42 Pa. C.S. § 8550, which, contrary to his position, *creates an exception to governmental* immunity not *sovereign* immunity. In other words, this exception applies to the actions of *local* municipalities and the employees of local municipalities, not state agencies and employees of state agencies. The individual defendants he names in the Complaint do not work for *local government*, but rather for state agencies. Thus, the governmental immunity exception upon which he

relies, namely the exception based upon alleged willful misconduct, is not applicable.

Garcia also argues that the individual Board defendants, Viglione and Parker, are not protected by the absolute immunity doctrine afforded certain officials who act in a quasi-judicial capacity. In the context of parole decisions, the federal courts have recognized that it is sometimes difficult to determine whether a parole authority employee is acting in a quasi-judicial capacity or an administrative capacity. *Thompson v. Burke*, 556 F.2d 231, 236 (3d Cir. 1977). In this case, however, Garcia specifically pleaded facts indicating that the staffing that occurred was a parole *hearing*. In such cases, the federal courts have concluded that the parole employee is functioning in an adjudicatory capacity and is, consequently, immune from a Section 1983 lawsuit. *Harper v. Jeffries*, 808 F.2d 281, 284 (3d Cir. 1986). Thus, we conclude that the trial court did not err in sustaining the Board's preliminary objection on the grounds of absolute immunity.

Finally, Garcia contends that the trial court erred in sustaining DOC's preliminary objection to his putative retaliation claim. Viewing the Complaint as liberally as possible, we perceive the Complaint as essentially seeking injunctive relief in order to direct the defendants to stop retaliating against Garcia. In order to state a retaliation claim under Section 1983, an inmate must demonstrate two elements: (1) that the defendant violated a right secured by the Constitution and laws of the United States; and (2) that a "person acting under color of state law" committed the alleged violation. *West v. Atkins*, 487 U.S. 42, 48 (1988). Additionally, in pressing a claim of retaliation, an inmate must allege facts which if proven would establish that (1) he was engaging in constitutionally protected conduct, (2) a prison official or officials took adverse action, and (3) that the

motivating factor behind the adverse action was the inmate's exercise of the protected activity. *Yount v. Dep't of Corr.*, 600 Pa. 418, 426, 966 A.2d 1115, 1120 (2009). Following our Supreme Court's direction in *Yount*, we agree with the trial court that Garcia has not pleaded facts supporting an allegation that the defendants' conduct constitutes "adverse action" for the purpose of a claim under Section 1983. There is no clear legal constitutional right to a grievance review and no constitutional right to parole.

Accordingly, we will affirm the trial court's order.

P. KEVIN BROBSON, Judge

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O R D E R

AND NOW, this 11th day of September, 2013, the order of the Court of Common Pleas of Somerset County is AFFIRMED.

P. KEVIN BROBSON, Judge