STATE OF INDIANA)
) SS:
COUNTY OF SULLIVAN)

IN THE SULLIVAN CIRCUIT COURT
2009 TERM
CAUSE NO. 77C01-0908-PL-00270

OSCAR GUILLEN, SR.,)
Plaintiff)
)
VS.)
)
DAVID THOMSON, et. al.,)
Defendants)

FILED
IN CIRCUIT COURT
AUG 26 2009
Clerk, Sullivan Circuit Court

ORDER

Pursuant to I.C. 34-58-1-1, this Court has examined Plaintiff's Complaint and has determined, pursuant to I.C. 34-58-1-2, that the claim is frivolous in that it does not have an arguable basis in the law and may not state a claim upon which relief may be granted for the following reasons:

1. Plaintiff has failed to provide proof to the Court that he has exhausted his administrative remedies before filing this cause of action. Plaintiff must have complied with the grievance process as a prerequisite to filing a lawsuit for claims of constitutional violations.

2. Further, the Court finds Plaintiff has failed to allege facts sufficient to prosecute this action against the Defendant named in his CIVIL RIGHT'S COMPLAINT pursuant to I.C. 34-13-3-5(c) nor has Plaintiff failed to establish liability given the qualified immunity that may protect the named Defendant.

3. Plaintiff has failed to provide the Court with adequate copies of his Complaint for service.

4. Plaintiff has failed to provide proof he exhausted his administrative remedies prior to filing this cause of action. Merely alleging that complying with the grievance procedure would be "futile" is not enough to avoid compliance with this prerequisite.

Based on the foregoing, the Plaintiff's CIVIL RIGHT'S COMPLAINT is dismissed with prejudice.

SO ORDERED this 26th day of August, 2009.

P. J. Pierson

P. J. PIERSON, Judge
Sullivan Circuit Court

77C01-0908-PL-00270, 2 Pgs
08/26/2009 Id: 0000160706
ORDER-CAUSE DISMISSED

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