

*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2003-163

AUGUST TERM, 2003

	}	APPEALED FROM:
	}	
Charles A. Crannell	}	Orleans Superior Court
	}	
v.	}	
	}	DOCKET NO. 48-2-02 Osecv
John Gorczyk, Commissioner of the Department of Corrections	}	Trial Judge: Walter W. Morris, Jr.
	}	
	}	

In the above-entitled cause, the Clerk will enter:

Plaintiff Charles A. Crannell appeals pro se from the trial court= s summary judgment dismissal of his complaint filed pursuant to V.R.C.P. 75. He argues that the trial court erred in granting summary judgment for defendant because questions of material fact exist. We affirm.

Plaintiff is an inmate committed to the custody and control of the Commissioner of the Vermont Department of Corrections (DOC). In November 2001, plaintiff requested permission from the DOC to have a computer in his cell. DOC denied plaintiff= s request. On November 25, 2001, plaintiff filed a grievance reiterating his request, which DOC denied. DOC indicated that due to numerous problems such as copyright violations, program piracy, and stolen parts, it had decided that no computers would be allowed to re-enter the facility. In February 2002, plaintiff filed a Rule 75 complaint challenging DOC= s denial of his request as discriminatory. Defendant moved for summary judgment, and provided a statement of undisputed material facts in support. Plaintiff filed a motion in opposition, but did not provide any affidavits or other evidence to support his claim that the reasons underlying defendant= s denial of his request were A factually untrue and without merit [sic].@ The trial court granted summary judgment for defendant after concluding that there were no genuine issues of material fact and defendant was entitled to judgment as a matter of law. This appeal followed.

We review a grant of summary judgment using the same standard as the trial court. Mellin v. Flood Brook Union Sch. Dist., 173 Vt. 202, 211 (2001). Summary judgment is appropriate if there are no genuine issues of material fact for trial and a party is entitled to judgment as a matter of law. Id.; V.R.C.P. 56(c). On summary judgment, the court must draw all reasonable inferences and resolve all doubts in the nonmoving party= s favor, and must regard as true all of the opposing party= s properly supported allegations. Mellin, 173 Vt. at 211.

Plaintiff argues that he is entitled to have a computer in his prison cell because he is a certified inmate legal assistant. He maintains that defendant discriminated against him by allowing another inmate to have a computer. The trial court concluded that defendant was entitled to judgment as a matter of law because plaintiff failed to identify any disputed material facts and defendant acted well within its discretion in barring plaintiff= s possession of a computer. We agree.

The trial court properly granted summary judgment for defendant because plaintiff failed to provide any support for the material facts that he argued were at issue. See V.R.C.P. 56(c). A party opposing summary judgment may not rest on mere allegations or denials, but must set forth specific facts, by affidavits or otherwise, showing that there is a genuine issue for trial. V.R.C.P. 56(e); see also Pierce v. Riggs, 149 Vt. 136, 137 (1987). In this case, plaintiff averred that the reasons underlying defendant= s denial of his request were A groundless and factually untrue.@ In support of his argument, plaintiff offered a certificate indicating that he has been approved to act as an inmate legal assistant, and two

grievances involving law librarians who were removed from their positions as law librarians for acting as A jailhouse@ lawyers. These documents do not support plaintiff= s contention that there are material facts in dispute so as to make summary judgment inappropriate. Because plaintiff did not support his allegation that there were material facts in dispute, the trial court properly granted summary judgment for defendant.

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice