

DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

Brown v. McNeil

976 So. 2d 616 (Fla. Dist. Ct. App. 2008) · No. No. 1D06-1511 · Decided February 6, 2008

SUMMARY

An indigent Florida prison inmate challenged the legality and constitutionality of a Department of Corrections rule requiring payment of copying costs for medical records. The First District Court of Appeal affirmed the denial of declaratory and mandamus relief, holding that the inmate had access to inspect the records and was not constitutionally entitled to free copies.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Allen, J.; Davis, J.; Benton, J.
JURISDICTION	Florida
DECIDED	February 6, 2008
DOCKET	No. 1D06-1511
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order denying or rejecting an inmate's requests for declaratory judgment and a writ of mandamus concerning charges for copies of medical records.
STANDARD OF REVIEW	Appellate review of the trial court's ruling on requests for declaratory and mandamus relief; the opinion does not state a separate formal standard of review.
PRECEDENTIAL VALUE	Published opinion of the Florida District Court of Appeal, First District.
PARTIES	Sylvester L. Brown v. Walter A. McNeil, Secretary, Florida Department of Corrections

TOPICS

- prisoners rights
- due process
- administrative law
- civil rights
- civil procedure

PRACTICE AREAS

- Administrative law
- Civil procedure
- Constitutional law
- Prisoners' rights
- Civil rights

QUESTIONS PRESENTED

1. Whether requiring an indigent prison inmate to pay the copying charge for governmental medical records under Florida Administrative Code Rule 33-601.901(2) violated due process or otherwise rendered the rule unlawful and unconstitutional.
2. Whether Brown was entitled to relief through declaratory judgment or mandamus, including a lien-based alternative to payment of the copying charge.

HOLDINGS

1. An indigent inmate is not generally entitled to free copies of records held by governmental entities, and imposing a copying charge does not deprive the inmate of a constitutional right when the inmate retains access to inspect the records.
2. Brown was not entitled to declaratory judgment or mandamus relief because the rule specifically required payment of copying costs, did not authorize the proposed trust-account lien procedure, and did not preclude inspection of the records.

KEY QUOTATIONS

“In Roesch v. State, 633 So. 2d 1 (Fla.1994), the supreme court indicated that indigent inmates are not generally entitled to free copies of records held by governmental entities, and that the imposition of a copy charge does not deprive the inmate of a constitutional right.” (617)

FACTUAL BACKGROUND

Brown, an indigent prison inmate, sought copies of medical records to pursue a medical malpractice action. Florida Administrative Code Rule 33-601.901(2) required payment of the copying cost, although the records remained available for his inspection. Brown argued that the copying charge was arbitrary, vague, irrational, and unconstitutional, and proposed that the Department instead place a lien on his inmate trust account.

PROCEDURAL HISTORY

Brown, a prison inmate, sought declaratory and mandamus relief in the trial court, arguing that Florida Administrative Code Rule 33-601.901(2) and section 945.10(3), Florida Statutes, unlawfully required him to pay copying costs for medical records. The trial court rejected his claims, and the First District affirmed.

DISPOSITION

affirmed

CASES CITED

- Roesch v. State, 633 So. 2d 1 (Fla. 1994)
- Elam v. State, 689 So. 2d 1232 (Fla. 5th DCA 1997)

OPINION

PER CURIAM.

976 So. 2d 616 (2008) Sylvester L. BROWN, Appellant, v. Walter A. McNEIL, Secretary, Florida Department of Corrections, Appellee. No. 1D06-1511. District Court of Appeal of Florida, First District. February 6, 2008. Rehearing Denied March 19, 2008. *617 Sylvester L. Brown, pro se, Appellant. Bill McCollum, Attorney General, and Susan A. Maher, Assistant Attorney General, Tallahassee, for Appellee.

ALLEN, J. The appellant is a prison inmate challenging an order entered on his request for a declaratory judgment and a writ of mandamus, whereby the appellant sought to establish that the copy charge in Florida Administrative Code Rule 33-601.901(2) is unlawful and unconstitutional.

The appellant contended that this rule, as well as section 945.10(3), Florida Statutes, is arbitrary and capricious and violates his right to due process. Among other contentions, the appellant also asserted that the statute is unduly vague, and that there is no rational basis for the rule.

In addition, he referred to the right of access to the courts, while maintaining that he needs copies of medical records so he can pursue a medical malpractice action. The appellant indicated that he is indigent, and argued that the Department of Corrections should not be allowed to impose the copy charge in rule 33-601.901(2).

The appellant suggests that instead of requiring payment of the charge in rule 33.601.901(2), the Department could place a lien on his inmate trust account. But although such a lien is elsewhere provided for in certain other circumstances, rule 33.601.901(2) does not authorize that procedure and specifically requires payment of the copying cost. And the Department did not preclude the appellant's access to the records, which have been available for the appellant's inspection.

In *Roesch v. State*, 633 So. 2d 1 (Fla.1994), the supreme court indicated that indigent inmates are not generally entitled to free copies of records held by governmental entities, and that the imposition of a copy charge does not deprive the inmate of a constitutional right. See also *Elam v. State*, 689 So. 2d 1232 (Fla. 5th DCA 1997).

The trial court made a similar ruling in the present case, and properly rejected the appellant's claims for relief from the copy charge in rule 33-601.901(2). The appealed order is affirmed. DAVIS, and BENTON, JJ., concur.