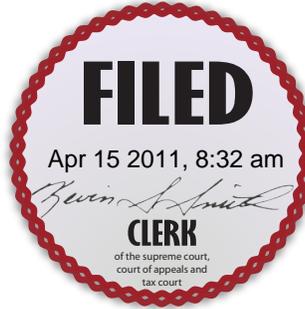


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

ATTORNEYS FOR APPELLEE:

JAMES MANN
Greencastle, Indiana

GREGORY F. ZOELLER
Attorney General of Indiana

KARL M. SCHARNBERG
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JAMES MANN,)
)
 Appellant-Defendant,)
)
 vs.) No. 49A02-1009-CR-1095
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Lisa J. Borges, Judge
Cause No. 49G04-0508-MR-144517

April 15, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

James Mann appeals the post-conviction (“PCR”) court’s denial of his request for additional educational credit time. The following issue is dispositive: whether the PCR court possessed subject matter jurisdiction over Mann’s claim.

We dismiss.

FACTS AND PROCEDURAL HISTORY

Mann completed a Bachelor of Science degree from Indiana State University while he was incarcerated with the Indiana Department of Correction (“DOC”). DOC credited him with one hundred eighty (180) days for the completion of this degree. Mann petitioned the post-conviction court contending that he was entitled to seven hundred thirty (730) days -- two (2) years as provided in Indiana Code section 35-50-6-3.3(a)(3)(D) and (d)(4) -- and therefore is entitled to five hundred forty-nine (549) days of additional educational credit. The State argued that Mann was not entitled to the additional days because his instant degree is duplicative of a previous degree. The PCR court found that Mann was not entitled to the additional educational credit. Mann appeals.

DISCUSSION AND DECISION

The legislature has determined that offender grievances arising out of administrative acts or omissions that affect the offender are to be resolved through a departmental grievance procedure that conforms to the requirements of Indiana Code section 11-11-1-1 et seq. If an offender exhausts all of his administrative remedies through DOC and still fails to obtain the relief sought, Indiana’s courts then have subject matter jurisdiction over a request for educational credit time. *Burks-Bey v. State*, 903 N.E.2d 1041, 1043 (Ind. Ct. App. 2009).

The burden is on the offender to show what the relevant DOC procedures are and that he has exhausted them at all levels. *Id.*

Here, the trial court lacked subject matter jurisdiction over Mann's claim because Mann has failed to show that he had exhausted his administrative remedies by filing, and pursuing to a conclusion, a grievance on the failure to grant him additional credit time for the bachelor's degree he received. Only when he can show that he has exhausted his administrative remedies can Mann appeal to the trial court if he still feels that he has been denied earned educational credit time.

We therefore dismiss for lack of subject matter jurisdiction without prejudice to permit Mann to file a new motion with the trial court after exhausting his administrative remedies with DOC.

Dismissed.

CRONE, J., and BRADFORD, J., concur.