

SUPREME COURT OF ARKANSAS

No. 11-955

JAMES CHADWICK RENFRO
APPELLANT

V.

FELISHA SMITH, PROGRAM
SPECIALIST, ARKANSAS
DEPARTMENT OF CORRECTION, ET
AL.
APPELLEES

Opinion Delivered February 7, 2013

APPEAL FROM THE LINCOLN
COUNTY CIRCUIT COURT, LCV 11-72,
HON. JODI RAINES DENNIS, JUDGE

AFFIRMED.

PER CURIAM

Appellant James Chadwick Renfro filed a petition for judicial review and declaratory judgment under Arkansas Code Annotated section 25-15-212 (Repl. 2002) that sought to challenge the dismissal of his grievance concerning a disciplinary action imposed upon him as an inmate of the Arkansas Department of Correction (“ADC”), the application of an administrative directive by prison officials, and policies that he asserted were in violation of contractual obligations of the ADC concerning his conduct in regard to hobby crafts while incarcerated. The circuit court denied the petition, and appellant lodged this appeal. We affirm the circuit court’s denial of relief.

The order below denied relief on the basis that appellant had not set out facts in the petition that, if proved, would be sufficient to establish a claim entitling him to relief under the statute. In appellant’s petition for judicial review, he alleged that he had entered into an agreement with ADC officials under which appellant was required to make certain purchases.

It appears from appellant's allegations that this agreement allowed him privileges that included making and sending greeting cards, provided that this was done in compliance with certain rules. Appellant alleged that the ADC implemented an administrative directive that effectively changed the rules regarding this privilege, that the defendant ADC officials relied upon that directive to impose and uphold a disciplinary action for what appellant contended would have been proper actions under the original agreement, and that the defendants violated applicable ADC rules in imposing the disciplinary action.

The order denying relief found that appellant's action was barred under the Arkansas Administrative Review Act, codified as Arkansas Code Annotated sections 25-15-201 to -217 (Repl. 2002 & Supp. 2011), because the Act specifically exempts inmate actions and appellant failed to state facts regarding the alleged violation sufficient to create a liberty interest protected by the Due Process Clause. When a complaint is dismissed on a question of law, this court conducts a de novo review. *Fatpipe, Inc. v. State*, 2012 Ark. 248, ___ S.W.3d ___. The issue before us is one of subject-matter jurisdiction to grant the relief sought. *See id.*

Section 25-15-212, the provision under which appellant sought to proceed, provides that, “[i]n cases of adjudication, any person, except an inmate under sentence to the custody of the Department of Correction, who considers himself or herself injured in his or her person, business, or property by final agency action shall be entitled to judicial review of the action under this subchapter.” Ark. Code Ann. § 25-15-212(a). In *Clinton v. Bonds*, 306 Ark. 554, 816 S.W.2d 169 (1991), this court held that the Act was unconstitutional to the extent that it deprived inmates of review of constitutional questions. In addition, the right to judicial review under the

Administrative Procedure Act is limited to cases of adjudication as defined by the Act. *Fatpipe, Inc.*, 2012 Ark. 248, ___ S.W.3d ____. In cases, like the one here, where an inmate challenges a disciplinary proceeding and the ADC officials' implementation of ADC rules, the petitioner must raise a constitutional question sufficient to raise a liberty interest merely to fall within the classification of claims subject to judicial review. *See* Ark. Code Ann. § 25-15-202(1)(B) (Supp. 2011); *Munson v. Ark. Dep't of Corr.*, 375 Ark. 549, 294 S.W.3d 409 (2009). The facts stated in appellant's petition clearly failed to rise to the requisite level.

In his brief, as in the petition, appellant alleges a breach of contractual terms of his agreement with the ADC. Appellant also contends in his brief, but did not clearly raise the argument in his petition, that the ADC rules interfered with his right to correspond or otherwise communicate with persons not in prison. He asserts in his brief that he lost his craft tools and supplies, income, and certain privileges, but appellant did not include any facts such as those in the petition or describe the sanctions imposed by the disciplinary proceedings. None of these claims, even if raised in the petition below, is sufficient to assert a deprivation of a liberty interest. *See Munson*, 375 Ark. 549, 294 S.W.3d 409 (where the inmate appellant had no liberty interest in actual procedures to be administered and failed to show a substantive due-process violation because he did not demonstrate an atypical and substantive deprivation that was a dramatic departure from the basic conditions of his confinement). Without such a deprivation, the final determination by the ADC that appellant would challenge in the petition did not require the requisite due process to trigger application of the act. *See id.* Appellant's arguments on appeal are therefore to no avail.

The circuit court correctly determined that appellant's petition did not set forth facts to show deprivation of a liberty interest and, as a result, failed to sustain a claim under section 25-15-212 to support a judicial review of the ADC's decision. We affirm the denial of relief.

Affirmed.

James Chadwick Renfro, pro se appellant.

No response.