

STATE OF MICHIGAN
COURT OF APPEALS

KENT A. MCNEIL,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS, MARIA
SMETKA, and DONALD J. FAULKNER,

Defendants-Appellees.

UNPUBLISHED

August 22, 1997

No. 190155

Lenawee Circuit Court

LC No. 95-006671-AS

Before: Sawyer, P.J., and Bandstra and E. A. Quinnell*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court's dismissal of plaintiff's request for a writ of mandamus. We affirm.

Plaintiff has failed to show either that he had a clear legal right to have the mailroom personnel of the Adrian Temporary Facility deliver to him the *Anti-Shyster* magazines sent to plaintiff through the mail or that the mailroom personnel had a clear legal duty to deliver the magazines to him. *Riley v Parole Bd*, 216 Mich App 242, 243; 548 NW2d 686 (1996); *Radecki v Director of Bureau of Worker's Disability Compensation*, 208 Mich App 19, 22; 526 NW2d 611 (1994); *Garner v Michigan State Univ*, 185 Mich App 750, 757; 462 NW2d 832 (1990). 1993 AACCS, R 791.6603(3) clearly and unambiguously limits a prisoner to the receipt of only those magazines sent directly from a publisher that is authorized by the institution head. *Attorney General v Lake States Wood Preserving, Inc*, 199 Mich App 149, 155; 501 NW2d 213 (1993). The documentary evidence plaintiff appended to his request for a writ of mandamus conclusively establishes that the magazines at issue were not sent directly to the corrections institution by an authorized publisher. Accordingly, plaintiff cannot establish his entitlement to mandamus and the trial court did not abuse its discretion when it dismissed plaintiff's mandamus request. *Radecki, supra*; *Garner, supra*.

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ David H. Sawyer
/s/ Richard A. Bandstra
/s/ Edward A. Quinnell