

DAVID F. MILLS,)	Chancery Court
)	No. 95-3331-III
Plaintiff/Appellant,)	
)	
VS.)	
)	
DONAL CAMPBELL and,)	Appeal No.
TENNESSEE DEPARTMENT of)	01A01-9604-CH-00190
CORRECTIONS,)	
)	
Defendants/Appellees.)	

**IN THE COURT OF APPEALS OF TENNESSEE
MIDDLE SECTION AT NASHVILLE**

**APPEAL FROM THE CHANCERY COURT OF DAVIDSON COUNTY
AT NASHVILLE, TENNESSEE**

HONORABLE ROBERT S. BRANDT, JUDGE

DAVID F. MILLS (Pro Se)
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<p>FILED</p> <p>August 30, 1996</p> <p>Cecil W. Crowson Appellate Court Clerk</p>
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AFFIRMED AND REMANDED

HENRY F. TODD
PRESIDING JUDGE, MIDDLE SECTION

CONCUR:

SAMUEL L. LEWIS, JUDGE
BEN H. CANTRELL, JUDGE

DAVID F. MILLS,)	Chancery Court
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O P I N I O N

The captioned petitioner filed a “Petition for Declaratory Judgment and a Writ of Mandamus” seeking alteration of the records of the Department of Correction as to the period of his incarceration. The Defendant filed a Motion to Dismiss for failure to state a claim for which relief can be granted. The motion was sustained by the Trial Court and petitioner appealed.

There is apparently a widespread misconception that the words “declaratory judgment” are an “open sesame” to the civil courts for dissatisfied prisoners. Such is not the case.

The civil courts have jurisdiction of a petition to review an administration decision in a “contested case” T.C.A. § 4-5-322. This is not a petition for review and the petition does not assert an administrative order in a contested case.

T.C.A. § 4-5-224 provides:

Declaratory judgments. -- (a) The legal validity or applicability of a statute, rule or order of an agency to specified circumstances may be determined in a suit for a declaratory judgment in the chancery court of Davidson County, unless otherwise specifically provided by statute, if the court finds that the statute, rule or order, or its threatened application, interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the complainant. The agency shall be made a party to the suit.

(b) A declaratory judgment shall not be rendered concerning the validity or applicability of a statute, rule or order unless the complainant has petitioned the agency for a declaratory order and the agency has refused to issue a declaratory order.

(c) In passing on the legal validity of a rule or order, the court shall declare the rule or order invalid only if it finds that it violates constitutional provisions, exceeds the statutory authority of the agency, was adopted without compliance with the rulemaking procedures provided for in this chapter or otherwise violates state or federal law. [Acts 1982, ch. 874, § 35.]

The petition does not allege that a declaratory order has been sought from and denied by any administrative agency as provided by T.C.A. 4-5-223.

Therefore, the petition does not allege acts which would confer jurisdiction upon the Trial Court to render a declaratory judgment. The complaint therefore fails to state a claim for which relief can be granted.

The judgment of the Trial Court is affirmed. Costs of this appeal are taxed against the appellant. The cause is remanded for any necessary further procedures.

AFFIRMED AND REMANDED.

HENRY F. TODD
PRESIDING JUDGE, MIDDLE SECTION

CONCUR:

SAMUEL L. LEWIS, JUDGE

BEN H. CANTRELL, JUDGE

