

STEVE ANCTIL

v.

MAINE DEPARTMENT OF CORRECTIONS

Submitted on Briefs April 25, 2018
Decided May 3, 2018

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Steve Anctil appeals from a judgment entered by the District Court (Rockland, *Sparaco, J.*) granting the Maine Department of Corrections' motion to dismiss after he filed a complaint for protection from harassment against the Department, 5 M.R.S. §§ 4651-4661 (2017).¹ We affirm the judgment.²

Despite Anctil's argument otherwise, the court did not err in dismissing Anctil's complaint for two reasons. First, the court correctly dismissed Anctil's complaint for failure to state a claim pursuant to M.R. Civ. P. 12(b)(6) because nothing in the protection from harassment statute expressly names the State or its agencies as being subject to its provisions. *See Dep't of Corr. v. PUC*, 2009 ME 40, ¶ 11, 968 A.2d 1047 ("We have a long and solid history of

¹ The trial court's dismissal with prejudice applies only to Anctil's petition for protection from harassment.

² We did accept and consider Anctil's late-filed reply brief.

interpreting statutes in order to avoid restraining the actions of the State unless the Legislature has expressly mandated the restraint.”).

Second, the court correctly dismissed Anctil’s complaint for lack of jurisdiction pursuant to M.R. Civ. P. 12(b)(1) because the Superior Court, not the District Court, has jurisdiction over judicial review of a final agency action or the failure or refusal to act. *See* 3 Harvey & Merritt, *Maine Civil Practice* § 80C:1 at 456 (3d ed. 2013-2014) (“Rule 80C is the *sole means* for seeking review of ‘action’ or ‘failure or refusal to act’ by an agency of state government under the Maine Administrative Procedure Act” (emphasis added)).

The entry is:

Judgment affirmed.

Steve Anctil, appellant pro se

Janet T. Mills, Attorney General and Jason J. Theobald, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee State of Maine