

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2005 CA 2299

ARTHUR RAY ROBINSON

VERSUS

**BURL N. CAIN, WARDEN, LOUISIANA STATE PENITENTIARY;
WARDEN DONALD DAVIS, COLONEL JOSEPH LAMARTINIÈRE
AND LIEUTENANT COLONEL BENJAMIN**

Judgment Rendered: November 3, 2006

**Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Docket Number 522,447**

Honorable Kay Bates, Judge Presiding

**Arthur Ray Robinson
Angola, LA**

Plaintiff/Appellant, pro se

**Tunde M. Anima-shaun
Baton Rouge, LA**

**Attorney for Defendants/Appellees,
Warden Burl Cain, et al.**

BEFORE: CARTER, C.J. WHIPPLE AND McDONALD, JJ.

WHIPPLE, J.

This is an appeal by plaintiff, Arthur Ray Robinson, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the DPSC), from a judgment of the district court, affirming the DPSC's rejection of Robinson's request for an administrative remedy filed pursuant to the Corrections Administrative Remedy Procedure (CARP), LSA-R.S. 15:1171 et seq., and dismissing his petition for judicial review with prejudice. In his grievance, Robinson complained both of allegedly being forced to violate his medically prescribed duty status by being assigned to work in a vegetable processing plant and also of alleged inadequate medical care for a respiratory condition.

Robinson's request for an administrative remedy was rejected by the DPSC for the following stated reason:

Your request for remedy contains multiple complaints. Only one complaint per letter is acceptable as defined in the Administrative Remedy Procedure. You may resubmit your complaint in accordance with proper procedure provided that you do so on a timely basis. If you need assistance with the Administrative Remedy Procedure, your inmate counsel substitute will assist you upon request.

Robinson then filed a petition for judicial review of the rejection of his request for administrative relief. See LSA-R.S. 15:1177. In his recommendation, the Commissioner recommended that the decision of the DPSC be affirmed and that Robinson's request for judicial review be dismissed with prejudice. The district court rendered judgment in accordance with the Commissioner's recommendation, and Robinson now appeals.

Louisiana Revised Statute 15:1177(A)(9) sets forth the appropriate standard of judicial review by the district court, which functions as an appellate court when reviewing the DPSC's administrative decision through

CARP. Specifically, the court may reverse or modify the administrative decision only if substantial rights of the appellant have been prejudiced because the administrative decision or findings are: (1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the agency; (3) made upon unlawful procedure; (4) affected by other error of law; (5) arbitrary, capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or (6) manifestly erroneous in view of the reliable, probative and substantial evidence on the whole record. LSA-R.S. 15:1177(A)(9); Lightfoot v. Stalder, 2000-1120, p. 6 (La. App. 1st Cir. 6/22/01), 808 So. 2d 710, 715-716, writ denied, 2001-2295 (La. 8/30/02), 823 So. 2d 957.

On review of the district court's judgment in a suit for judicial review under LSA-R.S. 15:1177, no deference is owed by the court of appeal to the factual findings or legal conclusions of the district court, just as no deference is owed by the Louisiana Supreme Court to factual findings or legal conclusions of the court of appeal. McCoy v. Stalder, 99-1747, p. 6 (La. App. 1st Cir. 9/22/00), 770 So. 2d 447, 450-451.

Pursuant to the DPSC's Adult Administrative Remedy Procedures, as published in the Louisiana Administrative Code, an inmate's request for an administrative remedy can be rejected during the screening process, and prior to assignment to the first step, only for the reasons listed therein, and the specific reason for rejection must be noted on the ARP form. LAC 22:I.325(F)(1)(a). One of the specifically enumerated reasons for rejection of an ARP prior to assignment to the first step is that "[t]he inmate has requested a remedy for more than one incident (a multiple complaint)," which was the stated reason why Robinson's request for an administrative remedy procedure was rejected herein. LAC 22:I.325(F)(1)(a)(vii).

As noted by the Commissioner in his Recommendation, which is attached hereto as “Appendix A,” Robinson complained in his request for an administrative remedy that his duty status had been violated and that he did not receive adequate medical treatment for his subsequently aggravated medical condition. Thus, while Robinson now argues that “the total events which took place” resulted in the violation for which he sought relief, his request for an administrative remedy clearly raised two distinct complaints: his job assignment and denial of adequate medical treatment. Because multiple complaints were raised in a single request for administrative relief, the DPSC acted lawfully when it rejected the request pursuant to LAC 22:I.325(F)(1)(a)(vii). Additionally, Robinson was adequately informed in the ARP form as to the reason for the rejection of his claim and of the right to resubmit the complaint in accordance with proper procedure. See LAC 22:I.325(F)(1)(a).

Accordingly, after a thorough review of the record herein, we find no error of law or fact and no violation of Robinson’s constitutional rights in the administrative decision of the DPSC, nor do we find that the DPSC was arbitrary or capricious in rejecting Robinson’s request as submitted. See LSA-R.S. 15:1177(A)(9)(a), (d), (e) & (f) and LAC 22:I.325(F)(1)(a)(vii). Thus, in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.1(B), the judgment is affirmed. Costs of this appeal are assessed against plaintiff, Arthur Ray Robinson.

AFFIRMED.

Appendix A

ARTHUR ROBINSON

NUMBER: 522,447

SECTION: 26

VS.

NINETEENTH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

N. BURL CAIN, WARDEN, ET AL

STATE OF LOUISIANA

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COMMISSIONER'S RECOMMENDATION

The petitioner filed the instant request for judicial review seeking to challenge the rejection of his initial request for administrative relief filed under Administrative Remedy Procedure No. LSP-2004-1694. This Commissioner notes that, when seeking review of a rejection of an initial request for administrative relief, the issue before the Court is whether there are proper grounds for the defendants to reject a petitioner's request for administrative relief. The administrative record filed in this matter evidences the petitioner's request for relief was rejected based on the finding by the defendants that the request raised multiple complaints.

This Commissioner has reviewed the initial request for relief filed in this matter. In the petitioner's complaint he contends his duty status has been violated, and, as a result of his job assignment, his medical problems have been aggravated. The petitioner also complains about the medical treatment he has received and requests that he be examined by a physician from outside his institution. The administrative record filed in this matter indicates the petitioner has raised distinct complaints regarding his job assignment and a denial of adequate medical treatment. The record filed in this matter does support the finding by the Department of Corrections that the petitioner has raised multiple complaints in a single request for administrative relief.

Accordingly, it is the recommendation of this Commissioner that the final agency decision rejecting the petitioner's request for administrative relief be affirmed on judicial review and this matter be dismissed, with prejudice and at the petitioner's cost.

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Respectfully submitted this 26th day of April, 2005.

[Signature]
JOHN M. SMART, JR.
COMMISSIONER, SECTION B
19TH JUDICIAL DISTRICT COURT

FILED

APR 26 2005

[Signature]
DEPUTY CLERK OF COURT

I HEREBY CERTIFY THAT ON THIS DAY A COPY OF
THE WRITTEN REASONS / JUDGMENT /
ORDER / COMMISSIONER'S RECOMMENDATION / WAS
MAILED BY ME WITH SUFFICIENT POSTAGE AFFIXED TO
IT AND SIGNED ON 4/26/05

[Signature]
DEPUTY CLERK OF COURT