

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2006 CA 1430

CHRISTOPHER M. EDWARDS

VERSUS

JAMES ROGERS, WARDEN, C. PAUL PHELPS CORRECTIONAL
CENTER; RICHARD STALDER, SECRETARY, LOUISIANA
DEPARTMENT OF CORRECTIONS AND RYAN STEPHENS,
PAROLE OFFICER, NEW IBERIA DISTRICT

Judgment rendered: May 4, 2007

On Appeal from the 19th Judicial District Court
Parish of East Baton Rouge, State of Louisiana
Suit Number 526,895; Division F (22)
The Honorable Timothy E. Kelley, Judge Presiding

Christopher M. Edwards
DeQuincy, LA

Plaintiff/Appellant
In Proper Person

Susan Wall Griffin
Baton Rouge, LA

Counsel for Defendants/Appellees
Richard Stalder

BEFORE: PETTIGREW, DOWNING AND HUGHES, JJ.

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DOWNING, J.

Petitioner/Appellant, Christopher M. Edwards, an inmate in custody of the Louisiana Department of Public Safety and Corrections (DPSC), seeks review of the trial court's judgment dismissing his suit for lack of subject matter jurisdiction. For the following reasons, we affirm the judgment of the trial court.

The Commissioner's June 15, 2005 screening report, adopted by the trial court in its July 21, 2005 judgment, adequately explains the decision. The screening report is summarized as follows:

Petitioner filed this instant action seeking judicial review of the final agency decision rendered under No. ARDC-2004-361. He seeks his immediate release from the custody of the DPSC because he was sentenced to a ten-year term at hard labor on a fourth offense DWI in Jefferson Parish, June 19, 2002. The trial court suspended eight years of the sentence and required the remaining two years be served without benefit of probation. The court further specified that after completing the two-year period, he was to be released to an Inpatient Substance Abuse facility and be placed on active supervised probation for five years. The court also specified that the sentence was to run concurrently with any time owed as a result of a parole revocation in an unrelated matter.

Petitioner alleges that he served one year of the sentence and was released on August 26, 2003, on good time as if on parole. Prior to the completion of his two-year period, he was arrested on a parole violation, and his parole was revoked April 26, 2004.¹ Petitioner further contends he was then brought back before the Jefferson Parish trial court, and his probation was revoked on June 2, 2004. Petitioner now contends the Jefferson Parish

¹ The date is listed as April 16, 2004 in the companion case (2226 CA 1529).

trial court improperly revoked his probation because the revocation was improperly based on the argument that his probationary period had not begun to run on his sentence. He relies on the decisions in *State v. Bradley*, 99-364 (La. App. 3 Cir. 11/3/99), 746 So.2d 263, and *State v. Talbert*, 99-2899 (La. App. 1 Cir. 6/23/00), 814 So.2d 2.

The Commissioner noted that the petitioner contends that the court sentencing record does not indicate that the probationary portion of his sentence would begin when released from custody as if on parole and that the court revoked his probationary period prior to the date the probationary period had begun. This claim is based on the assertion that the trial court had no authority to revoke his probation on June 2, 2004. The parties were allowed to expand the record to include exhibits P-1 – P-3 and D-2. D-2 consists of the commitment order indicating that the petitioner appeared before trial court on June 2, 2004 for a Rule to Revoke wherein petitioner's probation was revoked and his the initial ten-year term was made executory. He was given credit for time served, running concurrently with a sentence he was currently serving as a result of a parole revocation.

The Commissioner found that the instant complaint is an attack on the validity of the revocation of his probation by the Jefferson Parish court on June 2, 2004. The relief he seeks is for this court to vacate his probation revocation rendered in another jurisdiction. The Commissioner found that this court is without jurisdiction to address the merit of his probation revocation, as any challenge to his probation revocation must be raised in Jefferson Parish. The Commissioner said that the DPSC was merely carrying out the sentence imposed by the Jefferson Parish court, and any challenge to its validity must be raised in that judicial district court.

The Commissioner also noted that the petitioner is not entitled to the injunctive relief he seeks in this matter. Petitioner expressed concerns regarding the health of petitioner's mother and his inability to obtain relief. But the record clearly shows that the petitioner is raising a direct challenge to the actions of the trial court revoking his probation. The Commissioner found that the 19th Judicial District Court lacks subject matter jurisdiction over these claims. Accordingly, petitioner's request for judicial review and injunctive relief should be denied and this matter dismissed without prejudice based on the finding that this court lacks jurisdiction over the complaint.

The trial court adopted the Commissioner's recommendation and incorporated them into its judgment. After a thorough review of the record, we conclude that the trial court did not err in dismissing the petition for the reasons stated. The trial court judgment is affirmed in accordance with Uniform Rules Courts of Appeal, Rule 2-16.2(5)(8). All costs of this appeal are assessed to petitioner Christopher M. Edwards.

AFFIRMED