

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 0803

CHRIS J. LEONARD

VERSUS

**LOUISIANA DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONS, STATE OF LOUISIANA, ET AL.,
WARDEN, PHELPS CORRECTIONAL CENTER, ET AL.**

**On Appeal from the 19th Judicial District Court
Parish of East Baton Rouge, Louisiana
Docket No. 586,425, Section 26
Honorable Kay Bates, Judge Presiding**

**Chris J. Leonard
DeQuincy, LA**

**Plaintiff-Appellant
In Proper Person**

**William L. Kline
Baton Rouge, LA**

**Attorney for
Defendant-Appellee
Louisiana Department of
Public Safety & Corrections**

BEFORE: PARRO, GUIDRY, AND HUGHES, JJ.

Judgment rendered October 29, 2010

RHB
PK
JK

PARRO, J.

Chris J. Leonard, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals a judgment of the district court that dismissed his petition for judicial review. Based on our review of the record, we affirm the judgment.

DISCUSSION

On September 3, 2001, Mr. Leonard pled guilty to a charge of simple burglary, a violation of LSA-R.S. 14:62, and was sentenced to twelve years in prison, with credit for time served since December 2, 2000. In accordance with this sentence, his original full-term release date was December 2, 2012. However, on October 12, 2007, Mr. Leonard was released on parole. He remained at liberty under parole supervision until he was arrested for a violation of parole on July 15, 2009. His parole was then revoked on July 31, 2009, and a new full-term release date of March 27, 2014, was calculated for him.

After being advised of his new release date, Mr. Leonard filed a grievance pursuant to the Corrections Administrative Remedy Procedure (CARP) established by LSA-R.S. 15:1171, *et seq.*, contending that his original sentence had been unlawfully increased. Mr. Leonard's grievance was denied at the first step, with the following language:

Your file has been reviewed and found to be in compliance with all laws. In accordance with R.S. 15:574.9E^[1] you must serve the remainder of your sentence as of the date of your release on parole. You [were] released October 12, 2007 with a full[-]term date of December 2, 2012. Upon return and revocation you must serve the remainder of your sentence which is five years, one month and 20 days. The old full[-]term date of 12/2/2012 is [no] longer valid. Your balance owed is 1,701 days, added to your revocation date of 7/31/09[, which] brings your full[-]term date to 3/27/2014.

Your release dates are correct.

¹ Louisiana Revised Statute 15:574.9(E) provides, in pertinent part:

When the parole of a parolee has been revoked by the board for the violation of the conditions of parole, the parolee shall be returned to the physical custody of the Department of Public Safety and Corrections, office of corrections services, and serve the remainder of his sentence as of the date of his release on parole, subject to consideration by the board of any commutation of the sentence, and any diminution of sentence earned for good behavior while in the institution.

Mr. Leonard was not satisfied with this response and proceeded to step two of the CARP procedure; however, his grievance was denied at that level as well.

Thereafter, Mr. Leonard filed a petition for judicial review with the district court, again alleging that his sentence had been unlawfully increased upon the revocation of his parole. Essentially, Mr. Leonard sought credit on his twelve-year sentence for the time he spent at liberty on parole.

Pursuant to the screening requirements of LSA-R.S. 15:1178(B) and 15:1188(A), Mr. Leonard's petition for judicial review was assigned to a commissioner at the district court to determine if the petition stated a cognizable claim or if the petition, on its face, was frivolous or malicious, or failed to state a cause of action, or sought monetary damages from a defendant who was immune from liability for such damages. After completing the screening review, the commissioner issued a report recommending dismissal, with prejudice, because the petition for judicial review failed to state a cause of action for relief.

In so finding, the commissioner relied upon Bancroft v. Louisiana Dept. of Corrections, 93-1135 (La. App. 1st Cir. 4/8/94), 635 So.2d 738, 740, which provides:

The purposes of parole and probation are for the rehabilitation of the criminal and are acts of grace to one convicted of a crime. Because parole and/or probation are less restrictive on the offender's freedom than penal incarceration, and are acts of grace to the offender, violation of parole and/or probation has consequences such as no entitlement to credit against the offender's sentence for the time spent on probation and/or parole. (Citations omitted.)

Based upon this authority, the commissioner determined that Mr. Leonard had failed to state a cause of action or to state a legal basis for any relief against the DPSC. Therefore, the commissioner recommended that the petition for judicial review should be dismissed. After a careful *de novo* review of the record, the district court signed a screening judgment on March 4, 2010, adopting the written recommendation of the commissioner and dismissing the petition for judicial review, with prejudice and without service on the defendants, for failure to state a cause of action.

After a thorough review of the record, we find no error in the judgment of the district court or the recommendation of the commissioner, as the statutory law and jurisprudence are clearly adverse to Mr. Leonard's position. Accordingly, we affirm the judgment of the district court in accordance with Uniform Rules-Courts of Appeal Rule 2-16.1.B. All costs of this appeal are assessed to the plaintiff, Chris J. Leonard.

AFFIRMED.