

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2010 CA 1168

SECUNDINO CASTANEDA

VERSUS

STATE OF LOUISIANA PAROLE BOARD

**Judgment Rendered: February 11, 2011**

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Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
Suit Number 579,527

Honorable Kay Bates, Presiding

\* \* \* \* \*

Secundino Castaneda  
Jackson, LA

Plaintiff/Appellant  
Pro Se

Jonathan R. Vining  
Baton Rouge, LA

Counsel for Defendant/Appellee  
James LeBlanc, Secretary, Louisiana  
Department of Public Safety and  
Corrections

\* \* \* \* \*

BEFORE: PARRO, GUIDRY, AND HUGHES, JJ.

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**GUIDRY, J.**

Petitioner, Secundino Castaneda, filed a petition for judicial review in the Nineteenth Judicial District Court, seeking review of the decision by the Department of Public Safety and Corrections (Department) denying his administrative remedy request, which sought credit for time served prior to the revocation of his release on parole on his current sentence.<sup>1</sup>

After a hearing and thorough consideration of all of the evidence, the commissioner for the district court found that there was no express direction from a sentencing court that would award credit to Mr. Castaneda on his Louisiana sentence for time served in federal custody prior to receiving his federal sentence. The commissioner further determined that because La. R.S. 15:574.9(E)<sup>2</sup> prohibits the petitioner from receiving the additional jail credits sought in this matter, the Department complied with the sentences as imposed by beginning the balance owed on the petitioner's Louisiana sentence on the same date the federal sentence was imposed.

Additionally, the commissioner recommended that the district court raise and grant an exception of no cause of action and dismiss the Parole Board, who was originally named as a defendant in the petition for judicial review, because petitioner's claims raised at the hearing regarding his parole revocation were outside the scope of relief sought in petitioner's initial request for administrative relief. By judgment dated April 6, 2010, the district court raised on its own motion and granted an exception of no cause of action, dismissing the Parole Board as a

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<sup>1</sup> Petitioner named the State of Louisiana Parole Board as the defendant in his petition for judicial review. However, the Department of Public Safety and Corrections was served with the petition and filed the administrative record in response thereto. See La. R.S. 15:1177(A)(1)(b).

<sup>2</sup> Louisiana Revised Statute 15:574.9(E), prior to its amendment by 2010 La. Acts, No. 792, provided, in pertinent part, that "[t]he parolee shall not receive credit for such time served prior to the revocation hearing where the revocation is based on the subsequent conviction of a crime, in which case the parolee will receive credit for time served for the subsequent conviction pursuant to Code of Criminal Procedure Article 880."

defendant, affirmed the Department's decision, and dismissed Mr. Castaneda's petition for judicial review, with prejudice.

After a thorough review of the record, we find no clear error or error of law in the reasoning and findings in the commissioner's report, and affirm the judgment of the district court dismissing Mr. Castaneda's petition for judicial review in accordance with Uniform Court of Appeal Rule 2-16.2A(4)-(8).

**AFFIRMED.**