NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2009 CA 1648

BEN H. SCOTT

VERSUS

JEFFERY E. TRAVIS, WARDEN,
RAYBURN CORRECTIONAL CENTER

Judgment Rendered: May 7, 2010

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Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Case No. 561,819

The Honorable Janice Clark, Judge Presiding

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Ben H. Scott **Homer, Louisiana**	**Plaintiff/Appellant** **In Proper Person**
Terri L. Cannon **Baton Rouge, Louisiana**	**Counsel for Defendant/Appellee** **Department of Public Safety &** **Corrections**

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BEFORE: DOWNING, GAIDRY, AND McCLENDON, JJ.

GAIDRY, J.

In this case, an inmate in the custody of the Department of Public Safety and Corrections ("the Department") appeals a district court judgment dismissing his petition for judicial review for lack of subject matter jurisdiction. We affirm.

FACTS AND PROCEDURAL HISTORY

This matter initially arose from a lost property claim filed by prisoner Ben Scott concerning a box of legal documents that was misplaced when Scott was evacuated for Hurricane Katrina. His administrative remedy procedure ("ARP") was initially rejected because it was filed in the wrong jurisdiction. He filed a petition for judicial review of this rejection, and the district court ordered the Department to address the merits of Scott's ARP. Scott was informed by the court that he could file another petition for judicial review if he did not receive the relief he sought once the Department addressed the merits of his claim. After addressing the merits, the Department noted that since copies of the lost documents had been obtained for Scott, no further investigation was warranted.

The date of the Department's final decision on Scott's ARP was August 14, 2007, and the decision was received by Scott on August 23, 2007. On December 7, 2007, more than ninety days later, Scott filed a petition for judicial review of the Department's decision. The Department filed an exception of lack of subject matter jurisdiction, since the petition for judicial review was not filed within thirty days after receipt of the decision, as required by La. R.S. 15:1177(A). The district court sustained the Department's exception of lack of subject matter jurisdiction and dismissed Scott's petition for judicial review with prejudice. This appeal by Scott followed.

DISCUSSION

Louisiana Revised Statutes 15:1177(A) provides in pertinent part:

> Any offender who is aggrieved by an adverse decision . . . by the Department of Public Safety and Corrections . . . rendered pursuant to any administrative remedy procedures under this Part may, within thirty days after receipt of the decision, seek judicial review of the decision.

The thirty-day period provided by La. R.S. 15:1177(A) for filing a petition for judicial review is peremptive rather than prescriptive. *Carter v. Lynn*, 93-1583, p. 2 (La.App. 1 Cir. 5/20/94); 637 So.2d 690, 691. If an offender fails to file an action for judicial review in the district court within thirty days after he received his final agency decision, his right to relief ceases to exist. *Id.* Accordingly, we find no error in the district court's dismissal of Scott's untimely petition for judicial review.

DECREE

The judgment of the district court dismissing Scott's petition for judicial review with prejudice for lack of subject matter jurisdiction is affirmed. Costs of this appeal are to be borne by plaintiff, Ben Scott.

AFFIRMED.