

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 0143

CHARLES E. LEWIS

VERSUS

**RICHARD L. STALDER, SECRETARY, DEPARTMENT OF PUBLIC SAFETY &
CORRECTIONS, JAMES LeBLANC, WARDEN, LESLIE SCHMIDT,
DIRECTOR OF NURSING**

Judgment Rendered: JUN 11 2010

On Appeal from the Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket No. 563,229

Honorable Wilson Fields, Judge Presiding

Charles E. Lewis
Winnsboro, Louisiana

Plaintiff/Appellant
In Proper Person

Tunde M. Animashaun
Baton Rouge, Louisiana

Counsel for Defendant/Appellee
Richard L. Stalder, Former Secretary,
Louisiana Department Of Public Safety &
Corrections, James LeBlanc, Secretary,
Louisiana Department of Public Safety &
Corrections, Leslie Schmidt, Director
Of Nursing for Dixon Correctional Center

BEFORE: DOWNING, GAIDRY AND McCLENDON, JJ.

Downing concurs and assigns reasons.

McCLENDON, J.

Charles E. Lewis, an inmate in the custody of the Department of Public Safety and Corrections, filed a proceeding under the Corrections Administrative Remedy Procedure Act (CARP), LSA-R.S. 15:1177, *et seq.*, requesting a refund of his co-payments for medical treatment and prescriptions related to his asthma condition. The Department denied plaintiff's request, and he appealed that decision to the 19th Judicial District Court. On appeal, in addition to seeking review of the Department's denial of a refund of his co-payments, plaintiff also alleged that prison personnel displayed deliberate indifference to his serious medical needs. He sought damages arising from such treatment.

The district court noted that a "review of the record shows that the only issue raised...throughout the [CARP] process was whether the Department can assess him a medical co-payment for treatment for asthma." The district court indicated that there was no mention of any claim for damages related to his medical treatment in the administrative record. Accordingly, the district court dismissed all claims raised for the first time on appeal as being in violation of LSA-R.S. 15:1177(A) and for failure to file them in the mandatory venue and proper form as required under LSA-R.S. 15:1184. The district court remanded the matter to the Department, noting that the Department failed to consider whether plaintiff was required to make co-payments based on his alleged chronic respiratory ailment.¹

Following the remand, the Department found that plaintiff's position was correct and that he was entitled to a refund of his co-payments totaling \$16.00 related to his treatment for asthma. Although plaintiff maintained that his prison account was never properly reimbursed, Karissa Estes, a Department of Corrections Account Specialist II, testified that \$16.00 was deposited into plaintiff's account and the funds were utilized to pay debts plaintiff owed. After payment of the outstanding debts, a balance of \$1.93 remained and the

¹ The Department had denied relief because plaintiff's medical visits were all "self initiated," without addressing either the work illness or the chronic illness exclusions.

Department forwarded the monies to plaintiff for his benefit and use. Because the Department refunded plaintiff's co-payments, the district court dismissed the appeal as moot.

Plaintiff has appealed the district court's ruling, asserting that the \$16.00 was not properly paid and that he has only received \$1.93. Plaintiff also contends that he is entitled to damages as a result of his physical pain and suffering arising from defendants' deliberate indifference to his serious medical needs.

Review of a decision by the Department made in the course of CARP shall be conducted by the court without a jury and shall be confined to the record. The review shall be limited to the issues presented in the petition for review and the administrative remedy request filed at the agency level. **Lightfoot v. Stalder**, 00-1120, p. 6 (La.App. 1 Cir. 6/22/01), 808 So.2d 710, 715, writ denied, 01-2295 (La. 8/30/02), 823 So.2d 957. The district court properly noted that the only issues before it was whether plaintiff was entitled to a \$16.00 credit related to his asthma treatment and whether those funds had been placed into his account. The record reflects that both issues were decided in favor of the plaintiff. The issue of damages for inadequate medical treatment and deliberate indifference were not raised in the administrative proceedings and therefore could not be considered on appeal by the district court. Similarly, the Department's action in deducting the balances plaintiff allegedly owed from the \$16.00 credited to plaintiffs' account was not at issue in the appeal.

In light of the foregoing, we affirm the judgment of the district court. Costs of this appeal are assessed against plaintiff, Charles E. Lewis.

AFFIRMED.

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DOWNING, J., concurs and assigns reasons

It is beyond my comprehension that a \$14.00 case has made it to the
court of appeal.