

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2007 CA 0579

CHRISTOPHER M. EDWARDS

VERSUS

JEW  
B/K  
JJD  
LA. DEPARTMENT OF CORRECTIONS – CENTRAL  
INMATE BANKING, ET AL., RICHARD STALDER, ET AL.

Judgment Rendered: December 21, 2007

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Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge, Louisiana  
Trial Court Number 538,829

Honorable Wilson Fields, Judge

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Christopher M. Edwards  
Lafayette, LA

In Proper Person  
Plaintiff – Appellant

Debra A. Rutledge  
Baton Rouge, LA

Attorney for  
Defendants – Appellees  
Louisiana Department of  
Public Safety and  
Corrections, et al.

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BEFORE: CARTER, C.J., PETTIGREW, AND WELCH, JJ.

WELCH, J.

The plaintiff/appellant, Christopher M. Edwards, is an inmate in the custody of the Louisiana Department of Public Safety and Corrections (“the Department”) confined to the C. Paul Phelps Correctional Center in DeQuincy, Louisiana. He appeals the judgment of the district court dismissing his petition for judicial review of administrative remedy procedure (“ARP”) number PCC-2005-0538. We reverse the judgment in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.1(B) and remand for further proceedings.

The plaintiff contends that the Department violated his rights because it unilaterally deducted funds from his inmate banking account to pay court costs in Nineteenth Judicial District Court suit number 472,955 (“suit number 472,955”), a petition for judicial review of another ARP filed by the plaintiff, which was dismissed pursuant to **Pope v. State**, 99-2559 (La. 6/29/01), 792 So.2d 713, at his costs. The plaintiff alleges (and the Department does not dispute) that he was not imprisoned when he filed suit number 472,955 and that he did not file suit number 472,955 in *forma pauperis*.<sup>1</sup> Further, the plaintiff does not challenge the fact that judgment of dismissal in suit number 472,955 casts him with costs or that he owes those costs. Rather, he contends that the Department lacks authority to deduct those funds from his inmate banking account. Accordingly, in his petition for judicial review, the plaintiff sought to enjoin further deductions from his inmate banking account and to have the money that was deducted from his account reimbursed to his account.

The Department contends that it was authorized to deduct funds from the plaintiff’s inmate banking account pursuant to PCC Inmate Posted Policy # 40:8, 9,

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<sup>1</sup> See La. C.C.P. arts. 5181-5188 and La. R.S. 15:1186.

and 10;<sup>2</sup> La. R.S. 15:874(7); and La. R.S. 15:875.

Louisiana Revised Statutes 15:874 provides, in pertinent part, as follows:

The inmate's compensation account shall be handled and accounted for as follows:

\* \* \*

(3) Expenditures may be made for or on behalf of the inmate from his personal account in strict conformity with rules and regulations pertaining thereto.

(4) ... (b) ..., all or part of the amounts credited to any inmate's drawing or savings account may, upon the written request or authorization of the inmate or *upon order of a court of competent jurisdiction, be expended for the payment of court costs* in a matter in which the inmate is a party.

\* \* \*

(e) The funds credited to the inmate's drawing or savings account may be withdrawn to satisfy any restitution imposed by the Department of Public Safety and Corrections and those accounts may be frozen by the warden until the amount of restitution due from the inmate has been withdrawn from the accounts and paid to the institution in accordance with the provisions of R.S. 15:875.

(f) Except as provided in Paragraph (7) of this Section, money may not be withdrawn from an inmate's savings account for any other reason prior to his discharge or parole, unless authorized by the secretary of the department.

(g) In all criminal cases and in proceedings connected with criminal cases relating to a violation of state law, except for bond forfeiture proceedings, upon presentation to the Department of Public Safety and Corrections of a certified copy of the appeal or writ to a court of appeal of a matter in which the inmate is a party, upon the written request or authorization of the inmate, or upon order of a court of competent jurisdiction, the department shall withdraw funds from an inmate's drawing or savings account for the payment of the fees to the parish which has paid the cost of appeal. ...

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<sup>2</sup> PCC Inmate Posted Policy # 40 provides in pertinent part as follows:

8. *All or part of the amount credited to the inmate drawing or savings account may as requested by the inmate or on order of a Court be expended for payment of court cost in a matter to which the inmate is a party.* [La.] R.S. 15:874(7) governs deductions.

\* \* \*

10. Funds credited to an inmate's drawing and/or savings account may be withdrawn to satisfy any restitution imposed by the Department in accordance with [La.] R.S. 15:875. ... (Emphasis added.)

(7) Upon presentation to the Department of Public Safety and Corrections of a court order or a certified copy of an extract of the minutes of a court proceeding showing that an inmate was convicted and was assessed court costs, along with a letter from the sheriff itemizing the costs assessed and verifying which of the costs were not paid, the department shall withdraw funds from any of the inmate's accounts for the payment of court costs due. ...  
(Emphasis added.)

Additionally, Louisiana Revised Statute 15:875 provides, in pertinent part, as follows:

A. (1) Restitution may be obtained by the Department of Public Safety and Corrections from an offender who damages or destroys property, steals property that is not recovered or is damaged, causes or attempts to cause injury to himself, civilians, other offenders, or department personnel, or who has a pattern of falsely alleging injury or illness with the result that medical expenses are incurred.

\* \* \*

B. (1) Restitution may be obtained by corrections services from an offender for expenses incurred by the department or any other law enforcement agency in any escape or attempt to escape from the custody of any facility of the department.

\* \* \*

C. (1) Restitution may be obtained by corrections services from an offender for the cost of drug testing when the results of the test are positive.

On August 29, 2006, the commissioner issued a recommendation finding that that the Department's decision was neither arbitrary nor in violation of any of the plaintiff's rights, and therefore should be affirmed. While noting that the Department erroneously relied on La. R.S. 15:874(7) (pertaining to costs in criminal cases) and La. R.S. 15:875 (pertaining to restitution for offenses while in the custody of the department), the commissioner determined that La. R.S. 15:874(3) and (4) authorized the deductions. The commissioner reasoned that ordinarily an "inmate must give permission for deductions to be made [from their inmate banking account] ... *unless* there is a Court order for such funds to be paid." The commissioner then determined that the judgment dismissing suit

number 472,955, “*at [plaintiff’s] costs*” was “such an order.” After considering the entire record of the proceedings, the district court adopted the commissioner’s recommendation, rendered judgment affirming the Department’s decision, and dismissing the plaintiff’s suit at his cost.

At the outset, we note that the record before us, which includes the administrative record filed by the Department with regard to this complaint, does not contain the judgment in suit number 472,955 dismissing the action at the plaintiff’s cost. Although the plaintiff does not challenge the fact that he was cast with costs in suit number 472,955, because the Department purportedly relied on that judgment as its authority to deduct funds from the plaintiff’s inmate banking account and because the district court expressly found that said judgment was the “court order” authorizing the Department to deduct the funds, the absence of that judgment (or other order) in the administrative record (and in this record) demonstrates that the Department was deducting funds from the plaintiff’s inmate banking account without a court order. Moreover, while the parties do not dispute that the judgment dismissed suit number 472,955 at the plaintiff’s costs, we find, contrary to the finding of the commissioner and the district court, a judgment dismissing the suit at a party’s costs is *not* an “order of a court” directing that funds from an inmate banking account “be expended for the payment of court costs” in accordance with La. R.S. 15:874(4). Expenditures from inmate banking accounts are required to be in strict conformity with the applicable rules and regulations. See La. R.S. 15:874(3). Absent a request or authorization from an inmate, funds from the inmate’s banking account may be deducted for the payment of court costs in case where the inmate is party only “upon order of a court” that those funds be expended for such purpose. See La. R.S. 15:874(4)(b). Because the record before us is devoid of any such order, we must reverse the judgment of the district court and remand this matter for further proceedings on the plaintiff’s petition.

For the above and foregoing reasons, the October 20, 2006 judgment of the district court is hereby reversed in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.1(B) and this matter is remanded for further proceedings consistent with the views expressed in this opinion.

All costs of this appeal in the amount of \$765.00 are assessed to the defendant/appellee, the Louisiana Department of Public Safety and Corrections.

**REVERSED AND REMANDED.**