

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**2011 CA 0669**

**EDDIE SLOAN**

**VERSUS**

**JAMES LEBLANC, SECRETARY, LOUISIANA  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS**

—  
**On Appeal from the 19th Judicial District Court  
Parish of East Baton Rouge, Louisiana  
Docket No. 592,411, Section 27  
The Honorable Todd W. Hernandez, Judge Presiding**  
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**Eddie Sloan  
Homer, LA**

**Plaintiff-Appellant  
In Proper Person**

**Susan Wall Griffin  
Baton Rouge, LA**

**Attorney for  
Defendant-Appellee  
James LeBlanc, Secretary, Louisiana  
Department of Public Safety and  
Corrections**

**BEFORE: CARTER, C.J., PARRO, AND HIGGINBOTHAM, JJ.**

**Judgment rendered November 9, 2011**

*RWB*  
*SPK*  
*TMH*

**PARRO, J.**

Eddie Sloan, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals a judgment that affirmed DPSC's final decision in an administrative remedy procedure and dismissed his petition for judicial review of that decision. We affirm the judgment and render this opinion in accordance with Rule 2-16.1.B of the Uniform Rules of Louisiana Courts of Appeal.

**BACKGROUND**

Sloan contends DPSC improperly denied him "good time" credits based on his classification as a second offender of a crime of violence, pursuant to LSA-R.S. 15:571.3, as amended by 1994 La. Acts, 3rd Ex. Sess., No. 150, §1, effective August 27, 1994 (Act 150). He claims his first conviction in 1986 was for simple robbery, which was not defined at that time as a crime of violence. He does not dispute DPSC's records showing that he is currently serving sentences for aggravated battery and first degree robbery, both crimes of violence that were committed on June 26, 2006, after the effective date of Act 150. Sloan states his master prison record showed him earning good time credits until about May 2010,<sup>1</sup> when the DPSC records office revised his record and showed him as ineligible for good time credits, pursuant to Act 150.

Sloan pursued an administrative remedy under LSA-R.S. 15:1171 and was denied relief by DPSC at both steps of this procedure. DPSC explained its decision, stating:

The offense date of the first crime of violence does not determine if you are eligible or not eligible under Act 150. It is your second crime of violence that determines whether or not you are placed under Act 150. Your instant offense was committed after 8.27.1994, so therefore you are ineligible to earn good time and should be under Act 150 per Department Regulation B-04-001.<sup>2</sup>

Sloan then filed a petition for judicial review in the Nineteenth Judicial District Court

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<sup>1</sup> The release date computation information in the administrative record shows that the correction due to Act 150 was computed by DPSC on March 26, 2010.

<sup>2</sup> Department Regulation B-04-001 states in paragraph C:

Diminution of sentence shall not be allowed an inmate in the custody of the Department if the instant offense is a second offense crime of violence as defined by LA. R.S. 14:2(13) committed on or after August 27, 1994. (Act 150 of the [1994] Third Extraordinary Session).

(19th JDC).<sup>3</sup> DPSC answered the petition and attached the entire administrative record to its answer. A commissioner reviewed Sloan's petition and the administrative record and recommended to the district court judge that the petition be dismissed,<sup>4</sup> because the jurisprudence interpreting the issues raised by Sloan had already determined that if the second offense was a crime of violence and was committed after the effective date of Act 150, the provisions of Act 150 controlled the inmate's eligibility for diminution of sentence. After a *de novo* review of the record, the district court agreed with the commissioner's recommendation and dismissed Sloan's petition. This appeal followed.<sup>5</sup>

### ANALYSIS

After amendment by Act 150, LSA-R.S. 15:571.3(D) stated, in pertinent part:

Diminution of sentence shall not be allowed an inmate in the custody of the Department of Public Safety and Corrections if the instant offense is a second offense crime of violence as defined by R.S. 14:2(13).

Under the clear wording of the statute in effect at the time Sloan committed the instant offenses in 2006, he was not eligible to earn diminution of his sentence through good time credit. This precise situation was addressed by this court in Lewis v. Day, 97-0111 (La. App. 1st Cir. 2/20/98), 708 So.2d 1152. This court concluded that when the inmate was not entitled to earn good time credits under the law in effect **at the time he committed the instant offense**, DPSC's correction of his sentence to reflect his ineligibility for good time credits did not violate his rights and did not constitute an *ex post facto* application of the law. Lewis, 708 So.2d at 1155. See also Williams v. Creed, 07-0614 (La. App. 1st Cir. 12/21/07), 978 So.2d 419, 425-26, writ denied, 08-0433 (La. 10/2/09), 18 So.3d 111.

Moreover, as noted by the commissioner, when the law had changed before the time of the commission of the second offense, the inmate had been put on notice that commission of a crime of violence would eradicate his hopes for diminution of sentence

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<sup>3</sup> See LSA-R.S. 15:1177(A).

<sup>4</sup> The office of commissioner of the 19th JDC was created by LSA-R.S. 13:711 to hear and recommend disposition of criminal and civil proceedings arising out of the incarceration of state prisoners. The commissioner's written findings and recommendations are submitted to a district court judge, who may accept, reject, or modify them. LSA-R.S. 13:713(C)(5).

<sup>5</sup> See LSA-R.S. 15:1177(A)(10).

under the good time provisions. See, e.g., Kozlowicz v. State, Dep't of Pub. Safety & Corr., 08-1806 (La. App. 1st Cir. 3/27/09), 9 So.3d 1000, 1007; Bancroft v. Louisiana Dep't of Pub. Safety and Corr., 93-1135 (La. App. 1st Cir. 4/8/94), 635 So.2d 738, 741.

We have reviewed the record, the commissioner's recommendation, and the applicable law. We find no manifest or legal error in the commissioner's recommendation, which was adopted by the district court as its reasons and which adequately explains the judgment of the court. Therefore, we affirm the judgment and assess all costs of this appeal to Eddie Sloan.

**AFFIRMED.**