

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NUMBER 2010 CA 1474**

**EDWARD HARRIS**

**VERSUS**

**WARDEN BURL CAIN, MAJOR WILLIE RICHARDSON, KELLY  
FAGAN & PATRICIA KILLEN**

**Judgment Rendered: February 11, 2011**

**Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge, Louisiana  
Docket Number 577,968**

**Honorable Janice Clark, Judge Presiding**

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**Edward Harris  
Angola, LA**

**Plaintiff/Appellant, pro se**

**William Kline  
Baton Rouge, LA**

**Counsel for Defendant/Appellee,  
Louisiana Department of  
Public Safety & Corrections**

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**BEFORE: WHIPPLE, McDONALD, AND McCLENDON, JJ.**

**WHIPPLE, J.**

In this appeal by a prisoner, Edward Harris, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the DPSC) and confined to the Louisiana State Penitentiary in Angola, Louisiana, challenges the judgment of the district court dismissing his petition for judicial review of Disciplinary Board Appeal Number LSP-2009-0154-W and assessing a “strike” against him in accordance with LSA-R.S. 15:1184 et seq. For the following reasons, we affirm the district court’s judgment.

**PROCEDURAL HISTORY**

On February 19, 2009, Harris was issued a disciplinary report for violating Rule 21F (aggravated sex offense). After a hearing before the Disciplinary Board, Harris was found guilty of violating the rule and sentenced to twelve weeks loss of canteen and yard privileges. Harris appealed the decision of the Disciplinary Board to the warden, but the warden denied his appeal on the grounds that Harris had been provided a hearing comporting with due process and that the decision of the Disciplinary Board was appropriate.

Harris then filed a petition for judicial review in the district court, seeking expungement of the disciplinary report from his prison record, a reinstatement of privileges, and monetary damages. Pursuant to the screening requirements set forth in LSA-R.S. 15:1178, the matter was submitted to a commissioner for judicial screening prior to service on the named defendants.

On July 22, 2009, the commissioner issued a screening recommendation, noting that LSA-R.S. 15:1177(A)(9) authorizes the district court to intervene in the DPSC’s decision only if the plaintiff’s “substantial rights” have been violated. The commissioner further noted that the penalty

imposed herein involved neither a forfeiture of good time nor an atypical deprivation of a “substantial right” of Harris. Therefore, the commissioner recommended that Harris’s action be dismissed for failure to raise a substantial right violation (or state a cause of action) and that Harris be assessed a “strike.” See LSA-R.S. 15:1187.

After considering the entire record in this matter, the district court adopted the commissioner’s screening recommendation and rendered judgment dated October 7, 2009, dismissing Harris’s petition with prejudice for failure to raise a substantial right violation and imposing the recommended “strike” against Harris. From this judgment, Harris appeals, contending that the Disciplinary Board subjected him to “serious punishments,” but failed to observe the safeguards of due process.

#### **DISCUSSION**

After a thorough review of the entire record of these proceedings, we find no error in the commissioner’s screening recommendation or in the district court’s judgment. “[T]he Due Process Clause does not protect every change in the conditions of confinement having a substantial adverse impact on the prisoner.” Sandin v. Conner, 515 U.S. 472, 478, 115 S. Ct. 2293, 2297, 132 L. Ed. 2d 418 (1995). Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system. Sandin, 115 S. Ct. at 2301. Discipline by prison officials in response to a wide range of misconduct falls within the expected parameters of the sentence imposed by a court of law. Sandin, 115 S. Ct. at 2301.

In the instant case, the loss of yard and canteen privileges was not atypical or a significant hardship in relation to the ordinary incidents of prison life. Thus, the imposition of this penalty did not violate Harris’s

constitutional rights and did not afford him “a protected liberty interest that would entitle him to ... procedural protections.” Sandin, 115 S. Ct. at 2302; see also Parker v. LeBlanc, 2002-0399 (La. App. 1<sup>st</sup> Cir. 2/14/03), 845 So. 2d 445, 446; Giles v. Cain, 99-1201 (La. App. 1<sup>st</sup> Cir. 6/23/00), 762 So. 2d 734, 738-739; Davies v. Stalder, 2000-0101 (La. App. 1<sup>st</sup> Cir. 6/23/00), 762 So. 2d 1239, 1241. Moreover, given Harris’s failure to state a cause of action, we find no error in the district court’s imposition of a strike against Harris. See LSA-R.S. 15:1187.

### **CONCLUSION**

For the above and foregoing reasons, the October 7, 2009 judgment of the district court, dismissing Harris’s petition for judicial review with prejudice and assessing a strike against him, is hereby affirmed. Costs of this appeal are assessed against plaintiff, Edward Harris.

**AFFIRMED.**