

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2007 CA 1827

ERSELL WRIGHT

VERSUS

LOUISIANA STATE UNIVERSITY
HEALTH SCIENCES CENTER-SHREVEPORT

Judgment Rendered: May 2, 2008

Appealed from a Decision of the
State Civil Service Commission
State of Louisiana
Docket Number S-15844

Honorable James A. Smith, Chairman;
David L. Duplantier, Rosa B. Jackson,
and John McLure

Ersell Wright
Monroe, LA

Plaintiff/Appellee
In Proper Person

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Baton Rouge, LA

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Baton Rouge, LA

Counsel for Appellee
Anne Soileau, Director
Department of State Civil Service

BEFORE: PARRO, KUHN, AND DOWNING, JJ.

Disposition: AFFIRMED

Parro, J., dissents and assigns reasons.

KUHN, J.

Louisiana State University Health Sciences Center-Shreveport (LSU) appeals a decision of the State Civil Service Commission (Commission), basing its argument upon the testimony of one of its witnesses, John Fuqua, thus implicating credibility determinations made by the Commission's referee. However, after a thorough review of the record, we find no manifest error in the referee's factual determinations. Nor do we discern any legal error in the referee's conclusions of law. See **Brown v. Department of Health & Hospitals Eastern Louisiana Mental Health System**, 2004-2348, p. 10 (La.App. 1 Cir. 11/4/05), 917 So.2d 522, 530, writ denied, 2006-0178 (La. 4/24/06), 926 So.2d 545. Accordingly, we affirm the decision of the Commission in accordance with Rule 2-16.2A(6) and (8) of the Uniform Rules of Louisiana Courts of Appeal. All costs of this appeal in the amount of \$119.50 are assessed to Louisiana State University Health Sciences Center-Shreveport.

AFFIRMED.

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BEFORE: PARRO, KUHN, AND DOWNING, JJ.

 **PARRO, J., dissenting.**

The action taken by LSU would have been premature only if Ms. Wright had been able to establish by competent evidence that any of her unscheduled absences used in the separation letter could have been a "qualifying event" under the Family and Medical Leave Act (FMLA). Absent such proof, the Commission's decision should be reversed, and Ms. Wright's removal by LSU should be reinstated. Accordingly, I respectfully dissent.