

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 2238

GARY P. JAMERSON

VERSUS

**LOUISIANA DEPARTMENT OF CORRECTIONS SECRETARY, JAMES
LeBLANC & BURL CAIN, WARDEN, LOUISIANA STATE PENITENTIARY**

Judgment Rendered: MAY - 7 2010

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On Appeal from the Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket No. 562,984

Honorable Janice Clark, Judge Presiding

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Gary Jamerson
Louisiana State Prison
Angola, Louisiana

Plaintiff/Appellant
In Proper Person

Terri L. Cannon
Baton Rouge, Louisiana

Counsel for Defendant/Appellee
Louisiana Department of Public Safety
and Corrections

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BEFORE: DOWNING, GAIDRY, AND McCLENDON, JJ.

Downing, J. concurs.

McCLENDON, J.

Plaintiff-appellant, Gary P. Jamerson, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals the district court judgment dismissing his petition for judicial review regarding good time credit. In his petition, plaintiff alleges that after he committed the offense of forcible rape in 1996, LSA-R.S. 15:571.3B was amended to require that inmates convicted of a crime of violence earn good time at the rate of three days credit for every seventeen days served. He contends that the effective date of the amendment was January 1, 1997, so he should therefore receive thirty days good time credit for every thirty days served.

On August 19, 2009, the Commissioner issued a report and recommended that plaintiff's petition for judicial review be dismissed with prejudice. The Commissioner determined that the reduction in the rate of good time only affects plaintiff's opportunity for early release from physical custody and does not alter the length of the term imposed by the sentencing court or his full term release date. Therefore, it does not fall within the purview of the constitutional prohibition against the enactment of *ex post facto* laws. See **California Dept. of Corrections v. Morales**, 514 U.S. 499, 506, 115 S.Ct. 1597, 1602, 131 L.Ed.2d 588 (1995); **State ex rel. Olivieri v. State**, 00-0172, p. 13 (La. 2/21/01), 779 So.2d 735, 743, cert. denied, 533 U.S. 936, 121 S.Ct. 2566, 150 L.Ed.2d 730 (2001) and 534 U.S. 892, 122 S.Ct. 208, 151 L.Ed.2d 148 (2001). The Commissioner concluded that plaintiff failed to show that an *ex post facto* application of law occurred in this matter or that DPSC is precluded from awarding good time at a rate of three days credit for every seventeen days served. Following a *de novo* review, the district court adopted the Commissioner's report as its reasons in its September 16, 2009 judgment and dismissed plaintiff's request for judicial review with prejudice and at his costs.

Finding that the Commissioner's report and the district court's judgment adequately explain our decision, we affirm the judgment of the district court through this summary disposition, in accordance with Rules 2-16.2A(2), (4), (5),

and (6) of the Uniform Rules of the Louisiana Courts of Appeal. All costs of this appeal are assessed to the plaintiff-appellant, Gary P. Jamerson.

AFFIRMED.