

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2008 CA 1291

GERARD DAVE

VERSUS

C. PAUL PHELPS CORRECTIONAL CENTER
AND ROBERT Y. HENDERSON

DATE OF JUDGMENT: DEC 23 2008

ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT
(NO. C563,629, DIV. M, SEC. 26), PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

HONORABLE KAY BATES, JUDGE

Gerard Dave
Dequincy, Louisiana

Appellant
Pro Se

BEFORE: KUHN, GUIDRY, AND GAIDRY, JJ.

Disposition: AFFIRMED.

KUHN, J.

Petitioner-appellant, Gerard Dave, an incarcerated prisoner, appeals the district court's dismissal without prejudice of his petition seeking a writ of habeas corpus based on his allegations that the Robert Y. Henderson, as warden of Phelps Correctional Center, has incorrectly computed his sentence. We affirm.

The district court, on recommendation of the screening report submitted by the commissioner for the Nineteenth Judicial District Court, pointed out that appellant failed to file his claim on the required appellate form or to allege that he exhausted administrative remedies in connection with his complaint. See La. R.S. 15:1171B and 1172A. On appeal, appellant suggests that the Department of Public Safety and Corrections (DPSC) has illegally detained him and is liable for his unlawful custody, apparently requesting an order from this court that he be released.

Our review of the record confirms that the district court correctly pointed out that appellant has not applied for judicial review of the denial of relief for his claim of an incorrect computation of his sentence, and that his petition for a writ of habeas corpus lacks any allegation of exhaustion of administrative remedies. While in appellant's traversal of the commissioner's recommendation he attached a second step response form (denying him the requested relief), and on appeal he has stated that he filed an Administrative Remedy Procedure grievance bearing number 2007-0175 (which is in conformity with the number identified in the second step response form), he has neither averred an exhaustion of this grievance nor attached a third step response.

In its recommendation of dismissal of appellant's petition, the commissioner stated, "Until and unless the Petitioner has exhausted administrative remedies, and

properly identifies the administrative record he seeks to appeal, the [district court] has no jurisdiction or authority to entertain his complaint and he states no cause of action.” Because the district court had no jurisdiction, this court has no appellate jurisdiction over this matter. *Hull v. Stalder*, 2000-2730, p. 3 (La. App. 1st Cir. 2/15/02), 808 So.2d 829, 831.

Accordingly, finding no error in the district court’s dismissal of petitioner’s petition for a writ of habeas corpus, we affirm its judgment in this memorandum opinion issued in compliance with La. U.R.C.A. Rule 2-16.1B. Appeal costs are assessed against petitioner-appellant, Gerard Dave.

AFFIRMED.