

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

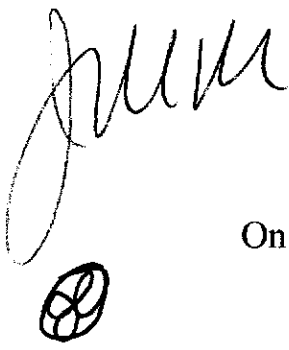
2008 CA 0422

GREGORY DAMM

VERSUS

**GARY GREMILLION, BLAINE VILLEMARRETTE, CLYDE
BENSON, DAVIE BONNETTE & BRUCE CAZELOT**

Judgment Rendered: JAN 12 2009



On Appeal from The Nineteenth Judicial District Court
In and For the Parish of East Baton Rouge
Trial Court No. 558,542, Division E(23)

Honorable Judge William A. Morvant, Judge Presiding

Gregory Damm
Cottonport, LA

Plaintiff/Appellant
In Proper Person

Louisiana Department of Corrections
c/o William Kline
Baton Rouge, LA

Defendant/Appellee
In Proper Person

BEFORE: PETTIGREW, McDONALD, AND HUGHES, JJ.



HUGHES, J.

Petitioner is an inmate in the custody of the Department of Public Safety and Corrections. He appeals from a judgment of the 19th Judicial District Court dismissing his petition for judicial review of the decision rendered under Disciplinary Board Appeal No. AVC-2007-75 and assessing him a third strike. For the reasons that follow, we affirm the ruling of the district court.

FACTS AND PROCEDURAL HISTORY

On August 27, 2007, Mr. Damm filed a petition for judicial review of an administrative remedy action.¹ A judgment was rendered on October 30, 2007 “adopting the written recommendation of the Commissioner” and dismissing the lawsuit with prejudice based upon the fact that “the petitioner fails to raise a substantial right violation.”

We agree that because the penalty imposed upon Mr. Damm in the underlying disciplinary proceeding does not rise to the level of a substantial right violation he is therefore not entitled to any relief under LSA-R.S. 15:1177(A)(9). Moreover, this conclusion is supported by our prior decision in **Parker v. LeBlanc**, 2002-0399 (La. App. 1 Cir. 2/14/03), 845 So.2d 445.

CONCLUSION

We conclude that the petitioner has failed to state a cause of action that would entitle him to relief and therefore his petition was properly dismissed by the district court. Therefore, we affirm the ruling of the district court in accordance with Uniform Rules – Courts of Appeal, Rule 2-16.2A(1).

AFFIRMED.

¹ Mr. Damm was accused and found guilty of violating Rules #3, #7, and #30J. He was sentenced to a custody change to maximum (extended lockdown) and ten days isolation/disciplinary detention.