

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2007 CA 2194

HAROLD JOE BLACK

VERSUS

WINN CORR. CENTER, ET AL., TIMOTHY
WILKINSON, CARL COLEMAN, NICOLE SMITH,
LOIS CHILDS

Judgment Rendered: May 2, 2008

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Suit Number 536,977

Honorable Janice Clark, Judge

Harold Joe Black
Keithville, LA

William L. Kline
Baton Rouge, LA

In Proper Person
Plaintiff-Appellant

Counsel for
Defendants-Appellees
Louisiana Department
of Public Safety and
Corrections, et al.

BEFORE: WHIPPLE, GUIDRY, AND HUGHES, JJ.

Hughes, Jr., dissents with reasons

GUIDRY, J.

Harold Joe Black, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), was issued a disciplinary rule violation report for defiance in violation of Rule #3 of the Disciplinary Rules and Procedures for Adult Inmates. The charged violation was based on an inmate request form that Black submitted to the program manager for the correctional center in which he allegedly advised the program manager that if forced to do so, he would pursue state and federal legal actions to attain a transfer to a work release facility to which he believed he was entitled, despite having acknowledged in writing that by enrolling in certain courses, he could not initiate such a request until completion of the courses.

Following a hearing before the prison disciplinary board on September 1, 2004, Black was found guilty of the charged violation and sentenced to 10 days isolation and the loss of eight weeks of canteen privileges. Following the secretary of the DPSC's denial of his appeal of the disciplinary action, Black filed a petition for judicial review with the Nineteenth Judicial District Court. In a screening report submitted by the commissioner assigned by the district court to review the matter, it was recommended that Black's petition be dismissed "with prejudice, prior to service on the defendants, and at the petitioner's cost, for the reason that he fails to raise a substantial right violation. Furthermore, it is recommended that the petitioner be assessed a strike." The district court rendered a screening judgment in conformity with the recommendation of the commissioner on December 7, 2005.

After a thorough review of the record, we find no error in the analysis or conclusions of the district court. As recognized by the commissioner in her screening report, in order for the district court to reverse or modify the decision of the DPSC, Black had to first show how his substantial rights were prejudiced by

the decision. See La. R.S. 15:1177A(9). The imposition of 10 days isolation and the loss of eight weeks of canteen privileges is not unusual or a significant hardship in relation to the ordinary incidents of prison life and did not prejudice Black's substantial rights. Thus, modification or reversal of the disciplinary action by the DPSC was not warranted under the law. See Parker v. Leblanc, 02-0399 (La. App. 1st Cir. 2/14/03), 845 So. 2d 445; Giles v. Cain, 99-1201, pp. 6-7 (La. App. 1st Cir. 6/23/00), 762 So. 2d 734, 739.

We, therefore, affirm the screening judgment of the district court and issue this summary disposition in accordance with Uniform Rules - Courts of Appeal, Rule 2-16.2(A)(2), (5), and (6). Costs of this appeal are assessed to the appellant, Harold Joe Black.

AFFIRMED.

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WINN CORRECTIONAL CENTER

HUGHES, J., dissenting

I respectfully dissent. The inmate “allegedly” “advised” he would “pursue” a legal remedy to which he believed he was entitled in writing on a “form”. If this is “defiance”, count me out.