

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NUMBER 2007 CA 2490**

**HAROLD JOE BLACK**

**VERSUS**

**RICHARD L. STALDER, SECRETARY, DEPARTMENT OF  
CORRECTIONS, PRISCILLA PITRE, ALLEN CORRECTIONAL  
CENTER, DISTRICT ATTORNEY JAMES BUTLER, LOUISIANA  
PROBATION AND PAROLE OFFICER MR. H. B. SHAVER AND  
JUDGE MONTY WYCHE**

**Judgment Rendered: May 2, 2008**

**Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge, Louisiana  
Docket Number 549,962**

**Honorable Timothy E. Kelley, Judge Presiding**

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**Harold Black  
Keithville, LA**

**Plaintiff/Appellant, pro se**

**Melinda L. Long  
Baton Rouge, LA**

**Counsel for Defendant/Appellee,  
Richard Stalder**

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**BEFORE: WHIPPLE, GUIDRY AND HUGHES, JJ.**

*WBL*  
*Long*  
*Ⓚ*

**WHIPPLE, J.**

This is an appeal by plaintiff, Harold Black, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the DPSC), from a judgment of the Nineteenth Judicial District Court, dismissing his petition for judicial review of request for administrative remedy number ALC-2006-794 that he filed with the DPSC pursuant to the Corrections Administrative Remedy Procedure (CARP), LSA-R.S. 15:1171, et seq.

In August 2000, plaintiff was adjudicated a second-felony offender after having been found guilty as charged of distribution of cocaine, and he was sentenced to fifteen years imprisonment at hard labor without benefit of probation or suspension of sentence. The first five years of the sentence were also imposed without benefit of parole.

On August 16, 2006, plaintiff filed a request for administrative remedy, which was numbered ALC-2006-794, contending that he should have been released from custody on April 30, 2006. Specifically, he contended that he had been unlawfully adjudicated a second-felony offender because his prior 1984 conviction could not be used as a predicate offense. Thus, he complained that the DPSC had erroneously denied his eligibility to earn good time credits as a second-felony offender.

The record reveals that plaintiff had previously filed a request for administrative remedy on July 8, 2006, which was assigned number ALC-2006-599. In that request, plaintiff also contended that he should have been released from custody on April 30, 2006, raising the arguments that the DPSC had erroneously denied his eligibility to earn good time credits as a second-felony offender and that his prior 1984 conviction could not be used as a predicate offense for a habitual offender adjudication.

Accordingly, plaintiff's request numbered ALC-2006-794 was denied at both steps at the administrative level on the basis that plaintiff had "already ARP'ed on this matter." Plaintiff then filed in the district court below a petition for judicial review of the denial of the requested relief in request number ALC-2006-794. This matter was then consolidated with suit number 549,961, plaintiff's request for judicial review of request number ALC-2006-599, in the district court for purposes of the hearing only, given that both suits raised related issues.

Thereafter, the Commissioner issued a report, recommending that the instant suit for judicial review of ALC-2006-794 be dismissed on the basis that the relief sought in request for administrative remedy number ALC-2006-794 is the same as that sought in the previously filed request number ALC-2006-599. In rejecting the complaint, the Commissioner noted that the DPSC rules authorize a screening officer to reject complaints, where, as here, the complaint raises a duplicate request. The district court agreed with the Commissioner's report and rendered judgment maintaining the Department's decision in ALC-2006-794. Plaintiff now appeals.

Louisiana Revised Statute 15:1177(A)(9) sets forth the appropriate standard of judicial review by the district court, which functions as an appellate court when reviewing the DPSC's administrative decision through CARP. Specifically, the court may reverse or modify the administrative decision only if substantial rights of the appellant have been prejudiced because the administrative decision or findings are: (1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the agency; (3) made upon unlawful procedure; (4) affected by other error of law; (5) arbitrary, capricious, or characterized by abuse of discretion; or (6) manifestly erroneous in view of the reliable, probative, and substantial

evidence on the whole record. LSA-R.S. 15:1177(A)(9); Lightfoot v. Stalder, 2000-1120 (La. App. 1st Cir. 6/22/01), 808 So. 2d 710, 715-716, writ denied, 2001-2295 (La. 8/30/02), 823 So. 2d 957.

On review of the district court's judgment in a suit for judicial review under LSA-R.S. 15:1177, no deference is owed by the court of appeal to the factual findings or legal conclusions of the district court, just as no deference is owed by the Louisiana Supreme Court to factual findings or legal conclusions of the court of appeal. McCoy v. Stalder, 99-1747 (La. App. 1st Cir. 9/22/00), 770 So. 2d 447, 450-451.

Based upon our review of the administrative record and pursuant to LSA-R.S. 15:1177(A)(9), we find no error in the district court's judgment dismissing the petition for judicial review. On review, we conclude that the DPSC's decision was neither arbitrary, capricious, manifestly erroneous, or in violation of plaintiff's constitutional or statutory rights, and, thus, the trial court was correct in dismissing plaintiff's suit. Pursuant to the DPSC rules governing adult administrative remedy procedures, the ARP screening officer is specifically authorized to reject a request for administrative remedy where, as here, the complaint is a duplicate request. La. Admin. Code, Tit. 22, Part 1, § 325(F)(1)(a)(iii).

After a thorough review of the record herein, we find no error of law or fact in the administrative decision of the DPSC, nor do we find that the DPSC was arbitrary or capricious in denying the relief requested by plaintiff, as the request was duplicative of the relief sought in request number ALC-2006-599. See LSA-R.S. 15:1177(A)(9)(a), (d), (e) & (f). Thus, in

August 9, 2007 judgment of the district court is affirmed. Costs of this appeal are assessed against plaintiff, Harold Joe Black.

**AFFIRMED.**