

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2011 CA 1020

HENRY CARTER

VERSUS


JAMES M. LEBLANC, SECRETARY, DEPARTMENT OF
CORRECTIONS AND N. BURL CAIN, WARDEN, LOUISIANA
STATE PENITENTIARY

DATE OF JUDGMENT: DEC 21 2011

ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT
NUMBER 573,789, SEC. 24, PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

HONORABLE R. MICHAEL CALDWELL, JUDGE

Henry Carter
Angola, Louisiana

Petitioner-Appellant
In Proper Person

Terri L. Cannon
Baton Rouge, Louisiana

Counsel for Defendants-Appellees
James M. LeBlanc et al.

BEFORE: WHIPPLE, KUHN, AND GUIDRY, JJ.

Disposition: AFFIRMED.

KUHN, J.

Appellant, Henry Carter, an inmate in the custody of the Louisiana State Department of Public Safety and Corrections (the Department), seeks review pursuant to La. R.S. 15:1171 et seq. of a district court judgment dismissing, with prejudice, his appeal from the Department's denial of his Administrative Remedy Procedure (ARP). For the following reasons, we affirm.

In his ARP, appellant alleged that he was improperly charged for Dove soap and lotion that he obtained from the Louisiana State Penitentiary Canteen. He asserted that he was issued a medical order from Dr. Roundtree for the Dove soap and lotion in 2006 and that he was unaware that he was being charged for those items. Appellant further requested that, since those items were no longer available at the prison canteen, he should be provided with similar soap and lotion.

The Department denied appellant's first step request, noting that Dr. Roundtree, the doctor appellant claimed gave him the medical order, had indicated that there was no prescription issued to appellant for Dove soap and lotion. Upon appellant seeking review of that decision, the Department issued a second step response, which again denied relief on the grounds that there was no record of an existing order prescribing Dove soap and lotion for him.

Thereafter, appellant filed a petition in the Nineteenth Judicial District Court seeking judicial review of the Department's decision. The Department filed an answer, attaching as an exhibit the administrative record of appellant's ARP. Thereafter, based on her review of the record, the commissioner issued a report finding that there was insufficient evidence "that the Department's failure to provide reimbursement in either money or additional soap and lotion is arbitrary or

manifestly erroneous.” Accordingly, the commissioner recommended that the Department’s decision be affirmed and appellant’s appeal dismissed with prejudice at his cost, since he failed to carry his burden of proving that the Department’s decision was arbitrary, capricious, manifestly erroneous, or in violation of his rights. By written judgment dated March 3, 2011, the district court adopted the commissioner’s report, affirmed the Department’s decision, and dismissed appellant’s appeal with prejudice. The instant appeal followed.

On appeal, appellant complains that the district court erred in failing to review the entire record and requests that we review the merits of his claim. After a thorough review of the record, we find no error of fact or law in the district court's judgment, given the reasons set forth in the commissioner's report. See La. R.S. 15:1177(A)(5) & (9).

CONCLUSION

Accordingly, we issue this summary opinion in accordance with Uniform Rules – Courts of Appeal, Rule 2–16.2A(4–8), affirming the judgment of the district court. All costs of this appeal are assessed against appellant, Henry Carter.

AFFIRMED.