

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 1862

JAMES ISOM

VERSUS

**GEO GROUP, INC., PAM DOYLE, JOHN ONELLION,
ED SHIRLEY, KENT RYDER, SELTON MANUEL,
COLEEN VIDRINE, O. KENT ANDREWS, PRISICILLA PITRE,
TERRY TERRELL, WARDEN THROUGH DEPARTMENT OF
PUBLIC SAFETY AND CORRECTIONS,
JAMES LeBLANC, SECRETARY**

—
**On Appeal from the 19th Judicial District Court
Parish of East Baton Rouge, Louisiana
Docket No. 574,649, Section 27
Honorable Todd W. Hernandez, Judge Presiding**
—

**James Isom
Kinder, LA**

**Plaintiff-Appellant
In Proper Person**

**William L. Kline
Baton Rouge, LA**

**Attorney for
Defendant-Appellee
Louisiana Department of
Public Safety and Corrections**

BEFORE: PARRO, KUHN, AND McDONALD, JJ.

Judgment rendered JUN 04 2010

PARRO, J.

James Isom, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC) at a facility with a private prison contractor custodian, appeals the summary dismissal of his lawsuit, without prejudice, based on a lack of subject matter jurisdiction by the district court.

In his petition (styled as an "Emergency Petition for Writ of Habeas Corpus and Order for Habeas Corpus Ad Testificandum"), the inmate claimed that this type of action could be used to contest the DPSC's continuous refusal to restore good time that had been deemed to have been forfeited in connection with a disciplinary action. He essentially alleged his good time had been improperly taken without authority by a private prison contractor, in violation of the requirements of LSA-R.S. 39:1800.5.

The commissioner's screening report recognized that the inmate filed a claim for "habeas relief" rather than seeking judicial review by the district court of an adverse decision by the DPSC or a contractor operating a private prison facility rendered pursuant to available administrative remedy procedures. See LSA-R.S. 15:1177, 1178, and 1188. Since the inmate's complaint challenged the validity of a disciplinary action, the commissioner found that it should have been raised through the disciplinary board appeal process. Based on the inmate's failure to exhaust required administrative remedies, the commissioner concluded that the district court lacked subject matter jurisdiction to consider the inmate's claim. See LSA-R.S. 15:1171 et seq. The district court adopted the written recommendation of the commissioner and dismissed the inmate's petition, without prejudice.

After a thorough review of the record and relevant law and jurisprudence,¹ we find that the district court's reasons for judgment, as set forth in the commissioner's recommendation, adequately explain the decision. As the issue involves no more than an application of well-settled rules to a recurring fact situation, we affirm the judgment

¹ See LSA-R.S. 15:1171 and 1172; Armant v. Wilkerson, 08-2287 (La. App. 1st Cir. 5/8/09), 13 So.3d 621; Singleton v. Wilkinson, 06-0637 (La. App. 1st Cir. 2/14/07), 959 So.2d 969. Pursuant to LSA-R.S. 15:1172(C), if an administrative remedy process is not completed at the time the petition is filed, the suit shall be dismissed without prejudice. Where an inmate fails to exhaust available administrative remedies, the district court and the appellate court lack subject matter jurisdiction to review the claim. See Lewis v. Rogers, 05-1138 (La. App. 1st Cir. 6/9/06), 938 So.2d 1025, 1026.

in accordance with URCA Rule 2-16.2(A)(1), (2), (4), (5), (6), (7), and (8). All costs of this appeal are assessed against the inmate-appellant.²

AFFIRMED.

² Although the inmate's suit was brought in forma pauperis, the costs of an unsuccessful appeal may be assessed against him. See Hull v. Stalder, 00-2730 (La. App. 1st Cir. 2/15/02), 808 So.2d 829, 833 n.3; see also LSA-C.C.P. art. 5188.