

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2011 CA 1788

JORDAN D. ZANTIZ

VERSUS

**LOUISIANA DEPARTMENT OF PUBLIC
SAFETY AND CORRECTIONS**

—
**On Appeal from the 19th Judicial District Court
Parish of East Baton Rouge, Louisiana
Docket No. 599,381, Section 24
Honorable R. Michael Caldwell, Judge Presiding**
—

*RHP
BGE
CA
TMT*
**Jordan D. Zantiz
Angie, LA**

**Plaintiff-Appellant
In Proper Person**

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

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

BEFORE: CARTER, C.J., PARRO, AND HIGGINBOTHAM, JJ.

Judgment rendered JUN - 1 2012

PARRO, J.

Jordan D. Zantiz, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals a screening judgment that dismissed his petition for judicial review and imposed a "strike" on him. For the following reasons, we affirm the judgment.

DISCUSSION

On November 9, 2010, while incarcerated at Rayburn Correctional Center, Zantiz was charged with fighting and failure to cooperate with an investigation. The charges were based on an incident report in which a corrections officer stated that, while supervising the unit, he heard what appeared to be a locker falling on the floor in one of the cells, and then heard a locker moving around as he approached that cell. When he got to the cell, he saw the two occupants standing facing each other, and Zantiz's cellmate was bleeding from the mouth. The officer reported that both inmates appeared to have been fighting. He took photographs of them and of the condition of the cell and attached those to his report. Both inmates were restrained without incident and placed in administrative segregation, pending a disciplinary hearing.

During the investigation and the disciplinary hearing, Zantiz invoked his "rights against self-incrimination" and refused to answer any questions concerning the incident, except to deny any involvement. His requests to speak with a substitute counsel, to contact a private attorney, and to present evidence were denied. Based on the officer's testimony and the photographs, Zantiz was found guilty of both violations. He was sentenced to ten days of isolation and a custody change to extended lockdown for the fighting violation and ten days of isolation and four weeks of room confinement for failing to cooperate with the investigation. He appealed the disciplinary action to the Warden in Disciplinary Board Appeal Number RCC-2010-405; his first step appeal was denied.¹

He then appealed to the Secretary of DPSC, who affirmed the guilty finding and

¹ A related appeal by way of an administrative remedy proceeding, ARP No. RCC-2010-551, which was based on the same incident, was also denied.

the disciplinary action taken. The Secretary's reasons stated, in pertinent part:

Upon review, we find the disciplinary report to be clear, concise and to provide convincing evidence of the violation as charged. The offender has not provided any evidence within this appeal to refute the charge. The officer's eyewitness account of the incident, which included several pictures of the injured offender provides sufficient evidence for the finding of guilt. ... The offender was provided with a full hearing and was afforded due process in both the hearing and the sentencing phases of the proceeding. Based on the seriousness of the offense, the sanctions given were appropriate.

Zantiz filed a petition for judicial review with the Nineteenth Judicial District Court, pursuant to LSA-R.S. 15:1177, claiming that his constitutional rights not to incriminate himself and to due process were infringed, resulting in disciplinary measures which he believes are excessive. The Commissioner who screened his petition, pursuant to LSA-R.S. 15:1178 and 1188, determined that the complaint did not state a cause of action, because there was no violation of a substantial right. Under LSA-R.S. 15:1177(A)(9), the court could not reverse or modify a decision unless substantial rights of the inmate had been prejudiced. Because the changes in custody conditions that were imposed on Zantiz did not rise to the level of a violation of substantial rights, the court could not entertain the appeal. Based on the Commissioner's recommendation and a *de novo* review of the record, the judge signed a judgment on June 17, 2011, dismissing Zantiz's petition for judicial review with prejudice at his cost for failure to raise a "substantial right" violation and failing to state a cognizable claim or cause of action. In addition, pursuant to LSA-R.S. 15:1187, the judgment imposed a "strike" against Zantiz.

On appeal to this court, Zantiz raises the same issues of violations of constitutional rights, resulting in excessive punishment. We have reviewed the entire record and agree with the judgment of the district court. There was no violation of his constitutional rights in the conduct of the disciplinary hearing. Prison disciplinary proceedings are not part of a criminal prosecution, and the full panoply of rights due a defendant in such proceedings does not apply. Wolff v. McDonnell, 418 U.S. 539, 556, 94 S.Ct. 2963, 2975, 41 L.Ed.2d 935 (1974). In a disciplinary proceeding when no

liberty interest is involved, due process for an inmate does not require that he be allowed to present evidence, cross-examine witnesses, or have counsel. *Id.* at 566-70. It is clear from the Warden's and the Secretary's reports, as well as Zantiz's own arguments, that he refused to answer any questions concerning the incident. When given the opportunity to provide his version of the incident, he denied involvement, but would not explain how his cellmate's mouth was injured. If, indeed, he was not involved in a fight, his answers to the questions would not have incriminated him. Thus his "rights against self-incrimination" were not violated. His refusal to explain the incident precluded a finding in his favor, because DPSC had presented the officer's testimony and photographs documenting the incident. Since Zantiz refused to answer any questions, there was no evidence to counter the officer's report. Ultimately, as the judge found, the disciplinary action imposed did not rise to the level of a violation of a substantial right. Therefore, the court could not reverse or modify the decision.

CONCLUSION

Based on the foregoing, we affirm the judgment of the district court. All costs of this appeal are assessed to Zantiz.

AFFIRMED.