

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2006 CA 0868

KEVIN PETERSON

VS.

RICHARD STALDER, GEOFFREY BORDELON AND  
KENNETH NORRIS

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JUDGMENT RENDERED: MARCH 23, 2007

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ON APPEAL FROM THE  
NINETEENTH JUDICIAL DISTRICT COURT  
DOCKET NUMBER 533,221, DIVISION I  
PARISH OF EAST BATON ROUGE, STATE OF LOUISIANA

HONORABLE R. MICHAEL CALDWELL, JUDGE

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KEVIN PETERSON  
HOMER, LA

IN PROPER PERSON/APPELLANT

WILLIAM KLINE  
BATON ROUGE, LA

ATTORNEY FOR DEFENDANT/APPELLEE  
DEPARTMENT OF CORRECTIONS

BEFORE: CARTER, C.J., WHIPPLE AND MCDONALD, JJ.

MCDONALD, J.

The plaintiff, Kevin Peterson, an inmate in the custody of Wade Correctional Institute in Claiborne Parish, filed a summary proceeding for mandamus in the Nineteenth Judicial District. Peterson alleges that the defendants, Richard Stalder, Kenneth Norris and Geoffrey Bordelon, have failed to perform their statutory ministerial duties of investigating a formal criminal complaint filed by him against prison officials.

Peterson's petition was reviewed pursuant to the screening requirements of La. R.S. 15:1178, 15:1188 and La. C.C.P. Art. 927. The Commissioner found that the petition was not one for which mandamus relief is available; the claim must be dismissed for lack of subject matter jurisdiction because of the failure to exhaust administrative remedies and to file this complaint as an appeal of an adverse decision; and in the alternative, that the matter must be stayed until and unless all costs are paid in accordance with La. R.S. 15:1186 for having three or more prior suits dismissed in accordance with the Prison Litigation Reform Act (PLRA).

Upon receipt of the suit, the trial court conducted a *de novo* review of the pleadings, as well as of the traversal of the Commissioner's Report filed by the petitioner. Adopting the written recommendation of the Commissioner, the trial court ordered that the matter be dismissed, prior to service, without prejudice, at plaintiff's cost and that the judgment of dismissal be considered a "strike" in accordance with the PLRA.

After thorough review of the record in this matter, we find no error in either the Commissioner's report or the judgment rendered by the trial court.

Therefore, the judgment appealed is affirmed, and this opinion is issued in accordance with Uniform Rules, Courts of Appeal, Rule 2-16.1B. Costs are assessed to Kevin Peterson.

**AFFIRMED.**