

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2011 CA 1791

MICHAEL A. KELLY

VERSUS

DEPARTMENT OF CORRECTIONS

Judgment Rendered: **MAY - 2 2012**

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Suit Number 600,186

Honorable Kay Bates, Presiding

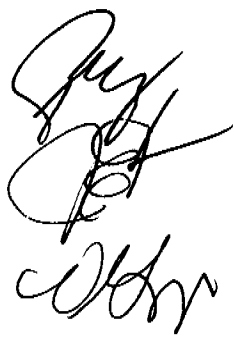
Michael A. Kelly
Angola, LA

In Proper Person

William Kline
Baton Rouge, LA

Counsel for Defendant/Appellee
Louisiana Department of Corrections

BEFORE: WHIPPLE, KUHN, AND GUIDRY, JJ.



GUIDRY, J.

Petitioner, Michael A. Kelly, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the Department) at Angola State Penitentiary, was issued a disciplinary rule violation report for possession of contraband and defiance in violation of Rules #1 and 3 of the Disciplinary Rules and Procedures for Adult Inmates. Following a hearing before the prison disciplinary board on February 7, 2011, Kelly was found guilty of the charged violations and was sentenced to a quarters change to Camp J. After exhausting his review before the Department, Kelly filed a petition for judicial review with the Nineteenth Judicial District Court. In a screening report submitted by the commissioner assigned by the district court to review the matter, it was recommended that the court raise, on its own motion, and grant an exception of no cause of action, dismissing petitioner's suit with prejudice, without an opportunity to amend, at petitioner's cost. The commissioner also recommended that petitioner be assessed a strike pursuant to La. R.S. 15:1187 for failing to state a cause of action or raise a cognizable claim. Thereafter, the district court issued a screening judgment in conformity with the recommendation of the commissioner.

After a thorough review of the record, we find no error in the analysis or conclusions of the district court. As recognized by the commissioner in his screening report, in order for the district court to reverse or modify the decision of the Department, Kelly had to first show how his substantial rights were prejudiced by the decision. See La. R.S. 15:1177A(9). The disciplinary sentence of a custody change to Camp J is not unusual or a significant hardship in relation to the ordinary incidents of prison life and did not prejudice Kelly's substantial rights. Thus, modification or reversal of the disciplinary action by the Department was not warranted under the law. See Parker v. LeBlanc, 02-0399, p. 2 (La. App. 1st Cir.

2/14/03), 845 So. 2d 445, 446; Giles v. Cain, 99-1201, pp. 6-7 (La. App. 1st Cir. 6/23/00), 762 So. 2d 734, 739.

Therefore, we affirm the screening judgment of the district court and issue this summary disposition in accordance with Uniform Rules-Courts of Appeal, Rule 2-16.2(A)(2), (5) and (6). Costs of this appeal are assessed to the appellant, Michael A. Kelly.

AFFIRMED.